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OFFICE OF PETITIONS

In re Application of	:	
Akgun et al.	:	DECISION ON PETITION
Application No. 10/803,417	:	
Filed: 18 March, 2004	:	
Atty Docket No. 03-1048	:	

This is a decision on the petition, filed on 26 October, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 18 March, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 30 March, 2006, is enclosed herewith.

The application is being referred to Technology Center Art Unit 2683 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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JUL 23 2004

In re Application of	:	
Daniel D. Friel et al.	:	
Serial No. 10/803,419	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO MAKE SPECIAL
For: PRECISION MEANS FOR	:	
SHARPENING AND CREATION	:	
OF MICROBLADES ALONG	:	
CUTTING EDGES	:	

Applicant's petition, filed June 22, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Harold Pezzner
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1007 N. Orange Street
Wilmington, DE 19801

The opinion in support of the decision being entered today
is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT WILMER RODENBECK, ROGER KEITH RUSSELL,
and MICHAEL LEE LONG

Appeal 2007-0981
Application 10/803,434
Technology Center 2600

Decided: July 18, 2007

Before LEE E. BARRETT, JOSEPH F. RUGGIERO, and ALLEN R. MACDONALD, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-7, 10-16, and 18-29. As indicated at page 2 of the Examiner's Answer, claims 18-26 have been allowed. Accordingly, only the rejection of

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claims 1-7, 10-16, and 27-29 is before us on appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' claimed invention relates to a security control system in which a remote access control system, which includes a remote access controller electrically coupled to a remote wireless communicator, receives wireless information from a central access control system. Upon receipt of information from the remote wireless communicator, the remote access controller uses the information to control locking and unlocking of a door. (Specification 1-2).

Claim 1 is illustrative of the invention and reads as follows:

1. A wireless security control system for use in a facility having a plurality of doors, the wireless security control system comprising

a central access control system in which access information is stored, and

a plurality of remote access control systems each being adapted to be mounted to a respective one of the doors of the facility to control the locking and unlocking of the respective door, the central access control system wirelessly transmitting access information to the plurality of remote access control systems independent of any users associated with the access information making any requests for rights to unlock any of the doors, each of the remote access control systems being configured to receive wirelessly and store at least some of the access information from the central access control system, each of the remote access control systems being configured to control the locking and unlocking of the respective door using the access information stored therein, each of the plurality of remote access control

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systems making a decision whether to unlock the respective door in response to a user making an attempt to unlock the door based on the access information stored therein and without having to further communicate with the central access control system.

The Examiner relies on the following prior art references to show unpatentability:

Pilney	US 5,298,883	Mar. 29, 1994
Goldman	US 5,321,963	Jun. 21, 1994
Kniffin	US 6,072,402	Jun. 6, 2000 (filed Jan. 9, 1992)
Pinzon	US 6,161,005	Dec. 12, 2000 (filed Aug. 10, 1998)
MacLellan	US 6,177,861 B1	Jan. 23, 2001 (filed Jul. 17, 1998)
Denison	US 6,359,547 B1	Mar. 19, 2002 (filed Dec. 4, 1996)

Claims 1-7, 10-16, and 27-29, all of the appealed claims, stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness, the Examiner offers Kniffin in view of Pinzon with respect to claims 1, 2, 4, and 10-12, adds Goldman to the basic combination with respect to claim 3, adds Pilney to the basic combination with respect to claim 5, 27, and 28, adds Denison to the basic combination with respect to claim 6, and adds MacLellan to the basic combination with respect to claims 7 and 13-16. Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kniffin and Pilney.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details

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ISSUES

(1) Under 35 U.S.C § 103(a), with respect to appealed claims 1, 2, 4, 10-12, would one of ordinary skill in the art at the time of the invention have been motivated and found it obvious to combine Kniffin with Pinzon to render the claimed invention unpatentable.

(2) Under 35 U.S.C § 103(a), with respect to appealed claims 3, 5-7, 13-16, 27, and 28, would the ordinarily skilled artisan have been motivated and found it obvious to modify the combination of Kniffin and Pinzon by adding various tertiary references to render the claimed invention unpatentable.

(3) Under 35 U.S.C § 103(a), with respect to appealed claim 29, would the ordinarily skilled artisan have been motivated and found it obvious to combine Kniffin with Pilney to render the claimed invention unpatentable.

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). "[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, "'there must be some

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articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

ANALYSIS

With respect to the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 based on the combination of Kniffin and Pinzon, after reviewing the Examiner's analysis (Answer 4-5), it is our opinion that the stated position is sufficiently reasonable that we find that the Examiner has at least satisfied the burden of presenting a prima facie case of obviousness. The burden is, therefore, upon Appellants to come forward with evidence and/or arguments which persuasively rebut the Examiner's prima facie case. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed waived [see 37 CFR § 41.37(c)(1)(vii)].

Appellants' arguments in response to the stated rejection, as well as to the Examiner's comments at pages 13 and 14 in the "**Response to Argument**" portion of the Answer, focus on the alleged deficiency of Kniffin in disclosing the transmission of access information to the access control systems independent of any users' requests to unlock doors as

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claimed. According to Appellants (Br. 5-6; Reply Br. 1-2), the user in Kniffin, in contrast to the claimed invention, must contact a clearinghouse with a request for a access to a locked door with the clearinghouse then transmitting the access information to the remote access control system.

We do not disagree with Appellants that various embodiments of the remote control locking system of Kniffin operate exactly as Appellants have stated. From our own independent review of Kniffin, however, it is also apparent to us that, as alluded to by the Examiner (Answer 13-14), other embodiments disclosed by Kniffin operate with preprogrammed access information in the lock and do not require any user access request communication with a clearinghouse. For example, the embodiment described at column 5, lines 40-59 of Kniffin involves the preprogramming of access information transmitted from a central access control system to a remote access control system at a door on a periodic basis, i.e., without any request by a user for access to the door. Again, Kniffin, at column 5, lines 53-55 states "[t]he door's memory can be reprogrammed with updated authorization data daily, or at such interval as may be appropriate."

For their part, Appellants contend (Reply Br. 2) that Kniffin's use of the word "foregoing" (col. 5, l. 40) in describing the preprogrammed authorization embodiment must be interpreted to mean that the previously described user access request requirement must also be part of the preprogrammed embodiment. We find no basis for interpreting the disclosure of Kniffin in the manner suggested by Appellants. We fail to see the point of preprogramming access information into a lock access control if a user would still be required to request access authorization from a clearinghouse as contended by Appellants. In our view, the ordinarily

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skilled artisan would have recognized and appreciated that any requirement for user access request from a central clearinghouse would defeat the purpose of preprogramming access authorization into the remote access lock control.

We make further reference to an additional embodiment of Kniffin which buttresses the view that different embodiments and variations thereof disclosed by Kniffin describe situations in which access information is programmed into the lock control and a user need not contact a central clearinghouse for access. In a variation of the cellular telephone embodiment described beginning at column 7, line 17 of Kniffin, a user utilizes a cellular telephone to transmit RF signals to a lock control system, which checks to see if the user is on a programmed list of authorized users, to gain access to a locked door without transmitting to a clearinghouse. (Kniffin, col. 7, ll. 36-37 and 44-49).

In view of the above discussion and analysis of the disclosure of Kniffin, we find that, although the Examiner's stated rejection included a reliance on Pinzon to provide a teaching of preprogramming access control information into a lock system independent of a user request for access, this teaching is cumulative to what is already disclosed by Kniffin. Accordingly, it is our opinion that, although we found no error in the Examiner's proposed combination of Kniffin and Pinzon as discussed *supra*, the Pinzon reference is not necessary for a proper rejection of independent claim 1 since all of the claimed elements are in fact present in the disclosure of Kniffin.

For the above reasons, since it is our opinion that the Examiner has established a prima facie case of obviousness which has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C.

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§ 103(a) rejection of independent claim 1, as well as dependent claims 2, 4, and 10-12 not separately argued by Appellants, is sustained.

We also sustain the Examiner's obviousness rejection of dependent claim 3 in which Goldman is added to the combination of Kniffin and Pinzon. Initially, we find Appellants' arguments (Br. 8-9; Reply Br. 2-3) related to the alleged deficiency in the applied prior art in providing a teaching of an exterior mounted antenna to be unpersuasive since, as alluded to by the Examiner (Answer 14), Kniffin in fact illustrates the receiving and transmitting antennas being mounted exteriorly of the lock housing 12. We also find no error in the Examiner's establishment of proper motivation for adding to the proposed combination the teachings of the Goldman reference, which illustrates in Figure 3 the control element 116 mounted on the inside of the door 112. In our view, the ordinarily skilled artisan would have recognized and appreciated the obvious security and environmental protection advantages of placing the wireless communication and remote access control circuitry on the inside of the door housing. As the Supreme Court stated in *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. at 1742-43, 82 USPQ2d at 1397, "[r]igid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it."

With respect to dependent claim 5, we also find no error in the Examiner's establishment of proper motivation for adding Pilney's teaching of providing a receiving/transmitting switch to the proposed combination of Kniffin and Pinzon and, accordingly, we sustain this rejection as well. Appellants have made no separate arguments for patentability of this claim

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but, instead, have chosen to rely on arguments made with respect to parent claim 1, which arguments we found to be unpersuasive as discussed *supra*.

We also sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claim 6 in which the Denison reference is added to the proposed combination of Kniffin and Pinzon. Appellants (Br. 9; Reply Br. 3) attack the teaching of Denison as providing a disclosure of a wired port only as an alternative to a wireless port in contrast to the language of claim 6 which requires both wired and wireless communication. Our review of the disclosure of Denison, however, reveals that Denison does in fact provide for both wired and wireless communication. For example, in addition to the portion of Denison (col. 3, ll. 36-39) cited by the Examiner as teaching a wired port, Denison also provides for wireless communication as illustrated in the Figure 6 embodiment described beginning at column 9, line 50.

Turning to a consideration of the Examiner's obviousness rejection of dependent claims 7 and 13-16 in which the periodic updating features of the MacLellan reference are added to the proposed combination of Kniffin and Pinzon, we also sustain this rejection. Appellants' arguments (Br. 10-11) in response reiterate those made with respect claim 1 alleging the failure of MacLellan to provide a teaching of wireless transmission of authorization information from a central control to a remote access control independent of any user access request. As we discussed previously, however, such a teaching is found in the disclosure of Kniffin.

Lastly, we also sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claims 27 and 28 and independent claim 29 in which the Pilney reference is added to Kniffin to address the "normally powered down" feature of these claims. Our review of Kniffin, however, indicates that this

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teaching of Pilney is cumulative to what Kniffin already discloses and, accordingly, Pilney is not needed for a proper rejection of these claims. As described at column 3, lines 37-40 of Kniffin, each lock receiver in a locking system can be targeted by time division multiplexing "wherein each receiver awakens in staggered brief intervals to listen for messages."

As a final commentary, we note that, as mentioned earlier, the Examiner has indicated (Answer 2) that claims 18-26 have been allowed. We find nothing on the record before us, however, which provides any reasons as to why these claims were allowed. We make the observation that independent claim 18 includes the feature of a plurality of central wireless communicators that are coupled to the central access controller. This feature is also present in dependent claim 14, a claim to which the Examiner applied the MacLellan reference in combination with Kniffin and Pinzon to address this feature. If the Examiner remains of the position that claims 18-26 should be allowed, a "Reasons for Allowance" should be included to ensure completeness of the record.

CONCLUSION

In summary, we have sustained the Examiner's 35 U.S.C. § 103(a) rejections of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-7, 10-16, and 18-29 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)(effective September 13, 2004).

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AFFIRMED

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Mail Date: 04/21/2010

Applicant	: Lehmann K. Li	: DECISION ON REQUEST FOR
Patent Number	: 7658750	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,440	: 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 **1705** 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
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In re Application	:
Goldfarb, et al.	:
Application No. 10/803,444	: PATENT TERM ADJUSTMENT
Filed: March 17, 2004	:
Dkt. No.: 020489-000410US	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed March 3, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b). The application for patent term adjustment was timely filed January 28, 2009, along with issue fee payment.

Applicants do not dispute the adjustment of to date of 527 days (adjustment totalling 554 days for Office delays less reductions totalling 27 days for applicant delays). Instead, applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). In this regard, applicants request an increase of adjustment from 527 days to 687 days.

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

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

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

Alesia M. Brown

Alesia M. Brown
Petitions Attorney
Office of Petitions

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In re Patent No. 7,563,273 :
Issued: July 21, 2009 :
Application No. 10/803,444 : PATENT TERM ADJUSTMENT
Filed: March 17, 2004 :
Dkt. No.: 020489-000410US :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed September 8, 2009. Patentee requests correction of the patent term adjustment from 545 days to 705 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,563,273 on July 21, 2009. The patent issued with a patent term adjustment of 545 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 545 days (572 days pursuant to 35 USC 154(b)(1)(A) *plus* 160 days pursuant to 35 USC 154(b)(1)(B) *less* applicant delay of 27 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on August 24, 2007, the application was pending three years and 159 days after its filing date (March 18, 2007 to August 23, 2007). The Office agrees that at the time of filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 554 days is correct. At issue is whether patentees should accrue 159 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 554 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 159 days of delay in issuing the patent overlaps with the 554 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of

overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the
> patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), March 17, 2004, and ending on August 23, 2007, the day before the date the RCE was filed on August 24, 2007.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 554 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 159 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 159 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 554 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 159 days and the 554 days is neither permitted nor warranted given that 554 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 545 days of patent term adjustment, having considered the 159 days of Office delay under the three-year pendency provision in conjunction with the 554 days of delay under 37 CFR 1.702(a)(1) that had accrued at the time of filing of the RCE as well as the 18 days of delay under 37 CFR 1.702(a)(4) that occurred subsequent to the filing of the RCE, reduced 27 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

As indicated in the decision mailed June 15, 2009, no additional fee is due in connection with this matter.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW
LLP/EVALVE INC. (020489)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Eric A. Goldfarb	: DECISION ON REQUEST FOR
Patent Number	: 7563273	: RECALCULATION of PATENT
Issue Date	: 07/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,444	: 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 **704** 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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DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of Yuan-Hung Liu et al Application No. 10/803,448 Filed: March 18, 2004 Attorney Docket No. N1085-00170(TSMC2003-0013)	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Rce and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of January 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 Technology Center AU 2814.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DUANE MORRIS LLP.
P.O. BOX 5203
PRINCETON, NJ 08543-5203

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Reed et al.	:	DECISION ON PETITION
Application No. 10/803,473	:	TO WITHDRAW
Filed: March 17, 2004	:	FROM RECORD
Attorney Docket No. 324212008500	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

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

A review of the file record indicates that on November 16, 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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO
C/O MOFO PALO ALTO
755 Page Mill Road
Palo Alto CA 94304

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MAY 03 2007

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of

CHENG, Stan
Application No. 10/803,474
Filed: March 17, 2004
Attorney Docket No. **23724-08325**

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 01, 2007.

The request is **APPROVED.**

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record. 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STAN CHENG**
3F, NO. 16, LANE 80, SEC. 2
FU-SHIN S. RD.
TAIPEI
TAIWAN

cc: **VINCENT LEE**
10-1FL., NO. 23, SEC. 1
CHANG-AN E. RD.
TAIPEI
TAIWAN, R.O.C.

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Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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AUG 2 5 2008

In re Application of	:	
Guy Rome	:	
Application No. 10/803,512	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO WITHDRAW
Attorney Docket No. 1016720019P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 9, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rutan & Tucker, LLP**
611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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SEP 02 2008

In re Application of	:	
POWERS, Kelly B. et al.	:	
Application No. 10/803,513	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO WITHDRAW
Attorney Docket No. **480062001900**	:	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 applicant of the patent application on May 16, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

Sand & Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

In re application of
James E. Price et al.
Application No. 10/803,523 :
Filed: March 17, 2004 :
For: SAFETY HOLDERS FOR FIREWORKS :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on August 20, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. 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 condition A) above.

Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 9/27/04

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OFFICE OF PETITIONS

HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON TX 75083

In re Application of	:	
March Scott HODES et al.	:	
Application No. 10/803,565	:	DECISION ON PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HODES 7-13-19-21-14-10-5	:	

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

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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RICHARDSON TX 75083

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AUG 18 2009

OFFICE OF PETITIONS

In re Application of	:	
March Scott HODES et al.	:	
Application No. 10/803,565	:	DECISION ON PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HODES 7-13-19-21-14-10-5	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 31, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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 Michelle R. Eason at (571) 272-4231. 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 1638 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.

Thurman Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/803,565	03/18/2004	1795	942	HODES 7-13-19-21-14-10-5	10	5

CONFIRMATION NO. 5953

CORRECTED FILING RECEIPT

47394
HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

OC000000037391913

Date Mailed: 08/18/2009

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)

Marc Scott Hodes, New Providence, NJ;
Paul Robert Kolodner, Hoboken, NJ;
Timofei Nikita Kroupenkine, Warren, NJ;
Alan Michael Lyons, New Providence, NJ;
Mary Louise Mandich, Martinsville, NJ;
Joseph Ashley Taylor, Springfield, NJ;
Donald Weiss, Cresskill, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 47394

Domestic Priority data as claimed by applicant

This application is a CIP of 10/716,084 11/18/2003 PAT 7,227,235

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Reserve cell-array nanostructred battery

Preliminary Class

429

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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John P. Wooldridge
252 Kaipii Pl.
Kihei, HI 96753

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OFFICE OF PETITIONS

In re Application of	:	
Luiz B. DaSilva	:	
Application No.: 10/803,574	:	ON PETITION
Filed: March 17, 2004	:	
Attorney Docket No: BL-4 NPROV	:	

This is in response to the petition under 37 CFR 1.137(b) filed March 13, 2006.

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 application became abandoned for failure to respond in a timely manner to the non-final Office action mailed December 1, 2004. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was filed on May 5, 2005, with a request for an extension of time within the second month. On July 26, 2005, a notice was mailed informing applicant that the response of May 5, 2005, was unresponsive and allowed a period of one (1) month from its mailing date to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. A Request for Continued Examination (RCE) was filed on January 30, 2006, with a request for extension of time within the fifth month. On February 2, 2006, applicant was advised that the response of January 30, 2006, would not be entered because prosecution in the application was not closed and the RCE was improper. No further responses were received and the application became abandoned on January 27, 2006. A Notice of Abandonment was mailed on February 14, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the non-final Office action with the petition. Any renewed petition filed must be accompanied either a proper amendment or a continuing application.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John P. Wooldridge
252 Kaipii Pl.
Kihei, HI 96753

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of
Luiz B. DaSilva
Application No.: 10/803,574
Filed: March 17, 2004
Attorney Docket No: BL-4 NPROV

ON PETITION

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

The decision mailed July 25, 2006, is vacated.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed December 1, 2004. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was filed on May 5, 2005, with a request for an extension of time within the second month. On July 26, 2005, a notice was mailed informing applicant that the response of May 5, 2005, was unresponsive and allowed a period of one (1) month from its mailing date to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. A Request for Continued Examination (RCE) was filed on January 30, 2006, with a request for extension of time within the fifth month. On February 2, 2006, applicant was advised that the response of January 30, 2006, would not be entered because prosecution in the application was not closed and the RCE was improper. No further responses were received and the application became abandoned on January 27, 2006. A Notice of Abandonment was mailed on February 14, 2006.

The continuing application, 11/375,873, filed March 13, 2006, is noted.

The application is being forwarded to Technology Center 3700, GAU 3737 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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HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

Mail Date: 05/19/2010

Applicant	: Timofei Nikita Kroupenkine	: DECISION ON REQUEST FOR
Patent Number	: 7618746	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/803,576	: 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 **1420** 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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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Patent of Shankar et. al.	:	DECISION ON REQUEST
Patent No. 7,642,272	:	FOR RECONSIDERATION OF
Issue Date: January 5, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/803,577	:	AND NOTICE OF INTENT TO
Filing Date: March 18, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. IN06009US01	:	CORRECTION

This is a decision on the petition filed on January 20, 2010, 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 two hundred ninety-one (291) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by two hundred ninety-one (291) days is **GRANTED**.

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 **two hundred ninety-one (291)** 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.	:	7,642,272 B2
APPLICATION NO.	:	10/803,577
DATED	:	January 5, 2010
INVENTOR(S)	:	Bandarpalle B. Shankar 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 Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 164 days.

Delete the phrase "by 164 days" and insert -- by 291 days--

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/803,586	03/18/2004	1751	1370	7523-00		12	3

CONFIRMATION NO. 6151

CORRECTED FILING RECEIPT

OC000000013692231

Colgate-Palmolive Company
909 River Road
P.O. Box 1343
Piscataway, NJ 08855-1343

Date Mailed: 09/01/2004

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

Applicant(s)

Amjad Farooq, Hillsborough, NJ;
Riad A. Taha, Spotswood, NJ;
Sayed Ibrahim, Somerset, NJ;
Patrick J. Getty, Metuchen, NJ;
Eugene E. Pashkovski, Bridgewater, NJ;
Natasha Dwight, Plainfield, NJ;
Daniel W. Smith, Belvidere, NJ;
Jeffrey Mastrull, Bridgewater, NJ;
Cynthia J. Mussinan, Howell, NJ;
Lewis Michael Popplewell, Morganville, NJ;

Power of Attorney: The patent practitioners associated with Customer Number **21832**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/803,586

Projected Publication Date: 09/22/2005

Non-Publication Request: No

Early Publication Request: No

Title

Oil containing starch granules for delivering benefit-additives to a substrate

Preliminary Class

510

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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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of	:
Amjad Farooq et al	:
Application No. 10/803,586	: DECISION GRANTING PETITION
Filed: March 18, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7523-00	:

This is a decision on the petition, filed May 23, 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 May 10, 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 1751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\803586.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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NOV - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

ASHKAN NAJAFI, P.A.
113 Lamplighter Lane
Ponte Verda Beach, FL 32082

In re application of	:	**DECISION ON PETITION**
Robert Thomas Kepka	:	**TO MAKE SPECIAL**
Application No. 10/803,596	:	**(APPLICANT'S AGE)**
Filed: March 18, 2004	:	
For: MARINE GIMBAL OUTDRIVE ASSEMBLY		

This is a decision on the petition submitted on April 02, 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. Kepka 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

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LOCKE LIDDELL & SAPP LLP
ATTN: STACIE COX
2200 ROSS AVENUE
SUITE 2200
DALLAS, TX 75201-6776

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MAY 01 2006
OFFICE OF PETITIONS

In re Application of

Garzon, et al. :

Application No. 10/803,609

: DECISION ON PETITION

Filed: March 18, 2004

:

Attorney Docket No. 44862/0002

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 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 March 31, 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 June 12, 2005. A Notice of Abandonment was mailed on November 3, 2005.

It is noted that a continuation-in-part application, Application No. 11/241,139 was filed on September 30, 2005, and is considered the reply to the non-final Office action as is required by 37 CFR 1.137(b).

The application is being forwarded to Technology Center 1600, GAU 1645 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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MAY - 6 2005

HOWREY, SIMON, ARNOLD & WHITE, LLP
321 CLARK STREET, SUITE 3400
CHICAGO, IL 60661

In re Application of	:
J. McCafferty et al	:
Serial No.: 10/803,622	: PETITION DECISION
Filed: March 18, 2004	:
Attorney Docket No.: 05569.0004	:

This is a response to the petition under 37 CFR 1.59(b), filed October 26, 2004, to expunge information from the above identified application.

Petitioner requests that documents submitted in an Information Disclosure Statement (IDS), filed October 26, 2004, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an unexamined application. The examiner has not had an opportunity to review the submitted material to determine its pertinence to patentability of the application. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The petition to expunge is at this time **DISMISSED**.

Upon termination of prosecution of the application applicants should submit a renewed petition to expunge the proprietary material. No fee will be due for the renewed petition.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,622	03/18/2004	John McCafferty	05569.0004.DVUS11	6206

22930 7590 01/12/2010
HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER
STEELE, AMBER D

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
01/12/2010	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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JAN 1 2 2010

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of:
McCafferty et al.
Serial No.: 10/803,622
Filed: March 18, 2004
Attorney Docket No.: **05569.0004.DVUS11**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed December 30, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Supplement Information Disclosure Statement transmitted on October 26, 2004 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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JACK C. MUNRO, INC.
28720 ROADSIDE DRIVE, STE. 225
AGOURA HILLS, CA 91301

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OFFICE OF PETITIONS

In re Patent No. 6,941,665
Issue Date: September 13, 2005
Application No. 10/803,627
Filed: March 17, 2004
Attorney Docket No. None

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f), filed April 25, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

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

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on July 29, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this applicant became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,941,665 on September 13, 2005. Therefore, no further action being required, this patented file is being referred to Files Repository.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shigetoshi Kuwahara et al :
Application No. 10/803,628 :
Filed: March 17, 2004 :
Attorney Docket No. 393032044400 :

This is a decision on the petition, filed June 28, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 5, 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 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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MORRISON & FOERSTER, LLP
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LOS ANGELES CA 90013-1024

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OFFICE OF PETITIONS

In re Application of
KUWAHARA, et al.
Application No. 10/803,628
Filed: March 17, 2004
Attorney Docket No. **393032044400**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 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 14, 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 2837 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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SUITE 1200
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Patent No. 6,969,690	:	
Issue Date: November 29, 2005	:	
Application No. 10/803,639	:	NOTICE
Filed: March 18, 2004	:	
Attorney Docket No. 421/170/14/2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Liana Chase
Petitions Examiner
Office of Petitions

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MAY - 6 2005

HOWREY, SIMON, ARNOLD & WHITE, LLP
321 CLARK STREET, SUITE 3400
CHICAGO, IL 60661

In re Application of	:
J. McCafferty et al	:
Serial No.: 10/803,653	: PETITION DECISION
Filed: March 18, 2004	:
Attorney Docket No.: 05569.0004	:

This is a response to the petition under 37 CFR 1.59(b), filed October 26, 2004, to expunge information from the above identified application.

Petitioner requests that documents submitted in an Information Disclosure Statement (IDS), filed October 26, 2004, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an unexamined application. The examiner has not had an opportunity to review the submitted material to determine its pertinence to patentability of the application. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The petition to expunge is at this time **DISMISSED**.

Upon termination of prosecution of the application applicants should submit a renewed petition to expunge the proprietary material. No fee will be due for the renewed petition.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH, VA 22042-2924

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OFFICE OF PETITIONS

In re Application of	:	
John McCafferty et al	:	
Application No. 10/803,653	:	DECISION DISMISSING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 05569.0004.DVUS12	:	

This is a decision on the petition filed July 28, 2009, which is being treated as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on May 21, 2009, with the issue fee being due on or before August 21, 2009. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1639 for appropriate processing of the RCE filed July 28, 2009, and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: John McCafferty	: DECISION ON REQUEST FOR
Patent Number	: 7662557	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,653	: 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 **371** 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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Lance J. Lieberman, Esq.
Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

Mail Date: 04/21/2010

Applicant	: Yasuhiro Sakai	: DECISION ON REQUEST FOR
Patent Number	: 7645594	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,667	: 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 **925** 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

In re Patent No. 7,438,847	:	
Clune et al.	:	
Issue Date: October 21, 2008	:	DECISION ON APPLICATION
Application No. 10/803,682	:	FOR
Filed: March 18, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 05918-246001 / 7050	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed December 8, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred eighty-six (986) days to one thousand two hundred thirty-one (1231) days.

The request for reconsideration is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On October 21, 2008, the above-identified application matured into US Patent No. 7,438,847 with a patent term adjustment of 986 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day."

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 583 days. This 583 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on March 18, 2004, and the patent having not issued until October 21, 2008, three years and 583 days later. Patentees assert that in addition to this 583 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 1,007 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final rejection as mailed on February 19, 2008, 14 months and 1,007 days after the application was filed.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 21 days for applicant delay. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (583 days) and the period of Examination Delay (1,007 days) **to the extent that these periods of delay are not overlapping**.

Patentees contend that a portion, 338 days, of the 14 month examination delay of 1,007 days (May 19, 2005 to February 19, 2008) overlaps the 583 days of the Three Year Delay period (March 19, 2007 to October 21, 2008). Accordingly, Patentees submit that the total period of Office Delay is 1,252 days, which is the sum of the period of Three Year Delay (583 days) and the period of Examination Delay (1,007 days), reduced by the period of overlap (338 days). See p. 3 of petition.

As such, Patentees assert entitlement to a patent term adjustment of 1,231 days (583 + 1,007 reduced by 338 overlap - 21 (applicant delay)).

The Office agrees that the patent issued 3 years and 583 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 1,007 days is

correct. At issue is whether Patentees should accrue 245 days (adjusted for overlap, per Patentees' calculations)of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 1,007 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 583 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay

> overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and

Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on March 19, 2007, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 18, 2004 to October 21, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 1007 days, not 1007 + 245 days. The Office took 14 months and 1007 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1007 days of Office delay and the 21 days of applicant delay and the time allowed within the

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

timeframes for processing and examination, the patent issued, three years and 583 days after its filing date. The Office did not delay 1007 days and then an additional 583 days. Accordingly, 1007 days of patent term adjustment (not 1007 and 583 days) was properly entered since the period of delay of 583 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1007 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 1007 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 583 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

Accordingly, no additional patent term was entered for Office delay in issuing the patent.

In view thereof, the Office affirms that the correct determination of patent term adjustment at the time of the issuance of the patent is 986 (1007 - 21) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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JUL 28 2009

OFFICE OF PETITIONS

In re Application of :
Min-Ho Kim :
Application No. 10/803,696 : DECISION ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 9898-315 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed February 6, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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BLOOMFIELD HILLS, MI 48304-0610

Mail Date: 04/21/2010

Applicant	: Michael E. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7628762	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,698	: 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 **661** 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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In re Application of	:	
Marquess et al.	:	
Application No. 10/803,713	:	DECISION ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. MER 03-014CIP	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, February 21, 2007 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on May 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment After Non-Final, (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 1634 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RICHES, MCKENZIE & HERBERT, LLP
SUITE 1800
2 BLOOR STREET EAST
TORONTO ON M4W 3J5 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Foley Leigh Marquess, et al.	:	
Application No. 10/803,713	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. MER 03-014CIP	:	

This is a decision in response to the petition, filed October 2, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 4, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 5, 2008. A Notice of Abandonment was subsequently mailed on July 7, 2009. On October 2, 2009, the present petition was filed.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of M. Scott McBride 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 on whose behalf he/she acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney McBride desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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).

Petitioner seeks revival solely for obtaining copendency with a continuation application filed March 3, 2009, in that the necessary continuity was not maintained at that time.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, the statement in the petition will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

This application is being revived solely for the purpose of continuity with the Application No. 12/396,804, filed March 3, 2009. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/396,804.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

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OFFICE OF PETITIONS

In re Patent No. 6,895,968	:	
Issue Date: May 24, 2009	:	
Application No. 10/803,739	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. SHAGE.P001(DIV.2)	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 11, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 26, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

T. Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON OH 45401-8801

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 10/803,748 :
Filed: March 17, 2004 :
Attorney Docket No. 100041-41199 :
Title: CARD SUPPLYING AND STORAGE SYSTEM :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed August 31, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed September 5, 2008, which set a shortened statutory period for reply of three months. An after-final amendment was received on December 5, 2008, and an advisory action was mailed on January 6, 2009. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on December 6, 2008. A notice of abandonment was mailed on March 30, 2009.

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.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. Petitioner further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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 that was submitted on August 31, 2009 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until

1 See Rule 1.137(d).

such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.[2] In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Donald G. Bauer
MeadWestvaco Law Dept.
1021 Main Campus Drive
Raleigh, NC 27606

---

2 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

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OFFICE OF PETITIONS

In re Application of	:
Amjad Farooq et al	:
Application No. 10/803,749	: DECISION GRANTING PETITION
Filed: March 18, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6661-00	:

This is a decision on the petition, filed May 23, 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 May 10, 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 1751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\803749.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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Paper No.

THOMAS S. KEATY
KEATY PROFESSIONAL LAW CORP.
2140 WORLD TRADE CENTER
NO. 2 CANAL STREET
NEW ORLEANS, LA 70130

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Ong et al.	:	
Application No. 10/803,752	:	DECISION ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. E04-1015	:	

This is a decision on the "PETITION" filed June 16, 2004, requesting that a filing date of March 18, 2004 be accorded to the above-identified application.

Application papers in the above-identified application were deposited on March 18, 2004. However, on June 3, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited March 18, 2004 had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition. Applicants acknowledge that the application as filed did not include drawings. Petitioner states that due to inadvertent clerical error, one page of drawings must have become jammed in the copy machine and as a result the one sheet of drawing was not properly submitted to the PTO. In support thereof, petitioner submitted an affidavit of the clerical employee Debra Mengel attesting to the inadvertent omission of drawing.

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

Applicants acknowledge that the application as filed did not contain drawings. Application papers not present in the application on the filing date cannot be considered a part of the original application papers.

Nonetheless, the application is entitled to a filing date. 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 and 2 (Brief Description of Drawings, p. 4 of Specification), mailing of a Notice requiring submission of those figures 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 June 3, 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 18, 2004.

CONCLUSION

To the extent that the petition requests that the application as originally filed, without drawings, be accorded a filing date of March 18, 2004, the petition pursuant to § 1.53 is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the petition fee will not be charged to petitioner's Deposit Account.

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 18, 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Edwards, Angell, Palmer & Dodge, LLP
P.O. Box 55874
Boston, MA 02205

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	
Steven J. King et al.	
Application No. 10/803,769	DECISION ON PETITION
Filed: March 18, 2004	TO WITHDRAW
Attorney Docket No. 59207(49510)	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 31, 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).

A review of the file record indicates that requestor, Charles N. Chaclas, and the attorneys associated with Customer Number 21874: (1) do not have power of attorney in this patent application, as no executed Oath or Declaration or Power of Attorney appointing the attorneys associated with the aforementioned Customer Number has been filed in this application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with Customer Number 21874 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. 1.32(b).

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 first named inventor Steven J. King. A courtesy copy of this decision will be mailed to Justin S. Rerko as indicated in 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.

To date, no Office action has been mailed in this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Steven J. King
7 Old Colony Road
Old Saybrook, CT 06475

cc: Justin S. Rerko, Esq.
511 Windstone Trail
Alpharetta, GA 30004

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/803,769	03/18/2004	Steven J. King	59207 (49510)

CONFIRMATION NO. 6698

OC000000023229307

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Date Mailed: 04/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2007.

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

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

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OFFICE OF PETITIONS

In re Application of

BOJINOV, Hristo et al.
Application No. 10/803, 788
Filed: March 17, 2004
Attorney Docket No. **DECR0004**

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 11, 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, (files transferred to another law firm), does not meet any the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CESARI AND MCKENNA**
ATTN: MR. CHARLED BARBAS
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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Robert A. Hulse
Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Shih-Tsung Chen	:	
Application No. 10/803,807	:	DECISION ON PETITION
Filed: March 17, 2004	:	TO WITHDRAW
Attorney Docket No. 23724-08324	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 2007.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with customer No. 00758. All attorneys/agents associated with the Customer Number 00758 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 sole inventor Shi-Tseng Chen. A courtesy copy of this decision will be mailed to Mr. Vincent Lee with the firm of Jan-HWA International Patent & Trademark & Law Offices as indicated in 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.

A non final rejection was mailed on September 25, 2006, but there is no indication that a reply has been filed. Therefore, if in fact no reply has been filed, then this application is now abandoned.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Shi-Tsung Chen
3F, No. 107, Kang-Le Street
Nei-Hu District
Taipei, TAIWAN

cc: Jan-HWA International Patent & Trademark & Law Offices
Attn: Mr. Vincent Lee
10-1FL., No. 23, Sec 1
Chang-An E. RD.
Taipei, TAIWAN, R.O.C.

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/803,807	03/17/2004	Shih-Tsung Chen	23724-08324

CONFIRMATION NO. 5599

OC000000023216149

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 04/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2007.

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

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

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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OFFICE OF PETITIONS

In re Application of	:	
Baldwin et al.	:	
Application No. 10/803,835	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 81072970	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 26, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Edwards Angell Palmer & Dodge LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Mail Date: 04/22/2010

Applicant	: Choong-Chin Liew	: DECISION ON REQUEST FOR
Patent Number	: 7662558	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,858	: 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 **235** 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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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

MAILED
MAY 1 2 2005
Technology Center 2100

In re Application of: HATA, et al.
Application No. 10/803,906
Filed: MARCH 19, 2004
For: APPARATUS AND METHOD FOR HEADER DECOMPRESSION

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 March 03, 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 4/29/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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JUN 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Higaki, et al.
Application No. 10/803,910
Filed: March 19, 2004
For: MEMORY CONTROL DEVICE AND METHOD FOR CONTROLLING THE SAME

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

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

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

Brian L. Johnson
Special Program Examiner 6/14/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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YI-WEN TSENG
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Yin-Hung Chen
Application No. 10/803,924
Filed: February 19, 2004
Atty Docket No. OP-09200188

ON PETITION

This is a decision on the petition, filed June 10, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for failure to reply in a timely manner to a non-final Office action mailed August 23, 2004. A Notice of Abandonment was mailed on June 17, 2005.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Kao H. Lu appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Lu desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 3743 for consideration of the response filed June 10, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KAO H. LU
686 LAWSON AVE
HAVERTOWN, PA 19083

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

MAILED

DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of: Shimooka, et al.
Application No. 10/803,945
Filed: March 19, 2004
For: DATA PROTECTING APPARATUS AND METHOD, AND COMPUTER SYSTEM

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on February 8, 2005 and resubmitted on July 18, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Doi, et al. :
Application No. 10/803,976 :
Filed: March 19, 2004 :
Attorney Docket No. Q80612 :

ON PETITION

This is a decision on the papers styled, "Petition To Correct Filing Date Under 37 CFR 1.53 and 37 CFR 1.182," filed September 14, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of March 19, 2004, including forty-nine (49) pages of specification and one (1) page of abstract.

The application was submitted on March 19, 2004. However, on June 4, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the specification is missing.

In response, on September 14, 2004, the present petition was filed wherein petitioner argues that forty-nine (49) pages of specification and one (1) page of abstract were filed on March 19, 2004. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "# Pgs Spec/Abst 49/1" on March 19, 2004. A review of the application file indicates the presence of zero (0) pages of specification and abstract deposited on March 19, 2004. It is assumed that missing specification and abstract were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee will be refunded to deposit account no. 19-4880.

This application will be returned to OIPE for further processing with a filing date of March 19, 2004, using the forty-nine (49) pages of specification and one (1) page of abstract, supplied on April 19, 2004.

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

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

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MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Tomohiro Nakajima et al :
Application No. 10/803,991 : ON PETITION
Filed: March 19, 2004 :
Attorney Docket No. 250487US2

This is a decision on the petition, filed March 11, 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 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2872 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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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 04/21/2010

Applicant	: Sung-hee Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7583575	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1566** 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

SILVERBROOK RESEARCH PTY
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/804,048	:	DECISION ON PETITION
Filed: March 19, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZG126US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed nonprovisional application.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (3).

The petition submitted on June 9, 2006 is not signed. Therefore, the statement cannot be accepted at this time.

Additionally, it is noted that in the Office Action mailed March 6, 2007, the examiner alerted applicant that the papers filed with the petition on June 9, 2006, were directed to Application No. 10/084,048.

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 Karen Creasy at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

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SEP 2 1 2007

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook	:
Application No. 10/804,048	: DECISION ON PETITION
Filed: March 19, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZG126US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to 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 2861 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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	TOT CLMS	IND CLMS
10/804,048	03/19/2004	2861	770	ZG126US	10	1

CONFIRMATION NO. 6931

CORRECTED FILING RECEIPT

OC000000025908958

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 09/19/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kia Silverbrook, Balmain, NSW, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,286 08/08/2003 PAT 6,739,701
which is a CON of 10/129,433 05/06/2002 PAT 6,672,707
which is a 371 of PCT/AU01/00217 03/02/2001

Foreign Applications

AUSTRALIA PQ5957 03/02/2000

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 US10/804,048

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Mounting for a modular printhead

Preliminary Class

347

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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NOV 0 8 2006

TECHNOLOGY CENTER 3600

Hauptman Kanesaka Berner Patent Agents, LLP
Suite 310
1700 Diagonal Road
Alexandria, VA 22314

In re Application of:
Masakazu Sueda
Appl. No. 10/804,070
Filed: July 28, 2003
For: Metal Gasket

:PETITION FROM
:REQUIREMENT OF
:RESTRICTION
:UNDER 37 CFR 1.144

This is a decision on Applicant's Petition under 37 CFR 1.144 filed on May 24, 2006. The delay in treating this petition is sincerely regretted.

The Petition is **GRANTED-IN-PART** to the extent indicated below.

Petitioner has requested that the election by original presentation made by the Examiner on February 14, 2006 be withdrawn, the Office action of May 2, 2006 be vacated, and the claims presented in the amendment filed on October 31, 2005 be examined.

Petitioner filed a response to a Rejection on October 31, 2005. In response to the amendment of October 31, 2005 the Examiner issued an Advisory Action. The Petitioner then submitted a Request for Continued Examination. A notice of non-responsive amendment was then issued due to withdrawal of all the pending claims by election by original presentation.

Petitioner states that originally presented claims 1-13 were directed to the Figures in the following manner: claims 1 and 2 were generic, claims 3 and 5 were directed to Figs. 7-11, claim 4 was directed to Figs. 7 and 8, claims 6 and 13 were explained in the specification, claims 7-9 were directed to Figs. 1-6, claim 10 was directed to Figs. 1, 2 and 5, claim 11 was directed to Figs. 3 and 4, and claim 12 was directed to Figs. 5 and 6. All the claims were examined in an Office Action mailed on April 19, 2005.

The Petitioner filed an amendment on June 30, 2005 in response to the Office Action of April 19, 2005. Petitioner states that the claims presented in the June 30, 2005 amendment were directed to the Figures as follows: claims 1 and 2 were directed to Figs. 1-6, claims 3-5, which should have depended from claim 16, were directed to Figs. 7-11, claim 6 was explained in the specification; claim 7 was canceled; claims 8-10 were directed to Figs. 1-6; claim 11 was directed to Figs. 3 and 4; claim 12 was

directed to Figs. 5 and 6; claim 13 was explained in the specification; claims 14 and 15 were directed to Figs. 1 and 2; claim 16 was directed to Figs. 7-11; claim 17 was directed to Figs. 9 and 10; and, claim 18 was directed to Fig. 11. All claims were examined in an Office Action mailed on August 30, 2005.

Petitioner then filed the amendment of October 31, 2005. Petitioner states that the 23 claims of October 31, 2005 were directed to the Figures in the following manner: In the amendment, claim 1 is directed to Figs. 1 and 2; claim 6 is explained in the specification; claim 14 is directed to Fig. 1; claim 16 is directed to Figs. 7 and 8; claim 19 is directed to Fig. 1; claim 20 is explained in the specification; claim 21 is directed to Figs. 7 and 8; claim 22 is directed to Fig. 7; and claim 23 is explained in the specification. The Examiner mailed an Advisory Action stating that the claims would require further consideration. As a result, the Petitioner filed a Request for Continued Examination and that the claims of October 31, 2005 be entered. The Examiner then mailed the Notice of Non-responsive amendment withdrawing all the pending claims by original presentation.

After review of all the claims filed in this application, the claims have been interpreted to align with the embodiments shown in the Figures as follows: The originally filed claims had claims that were generic (claims 1 and 2), claims that were generic to a half bead (claims 3 and 4), claims that were generic to a full bead (claims 7-10), claims that were specific to the embodiment of Figs. 3 and 4 (claim 11), claims that were specific to the embodiment of Figs. 5 and 6 (claim 12) and claims that are specific to the embodiment of Figs 9-11 (claim 5).

The claims presented on June 30, 2005 are interpreted as having claims that are were generic (claims 1, 2, 14-16), claims that were generic to a half bead (claims 3, 4 and 17), claims that were generic to a full bead (claims 8-10), claims specific to the embodiment of Figs. 3 and 4 (claim 11) and claims that were specific to the embodiment of Figs. 5 and 6 (claims 12, 18).

The claims presented in the October 31, 2005 amendment are interpreted as having claims that are specific to the embodiments of Figs. 1, 2, (claim 1), claims that are specific to the embodiment of Fig. 1 (claims 14 and 19), claims that are explained only in the specification (claims 6, 20 and 23), claims specific to the embodiments of Figs. 7 and 8 (claims 16 and 21), claims specific to the embodiment of Fig. 7 (claims 21 and 23), and claims that are specific to the embodiment of Fig. 7 (claim 22).

It is agreed that the Examiner had examined claims that were specific to multiple embodiments before the claims of October 31, 2005. Furthermore, it is noted that there was never a formal restriction requirement made by the Examiner. Without such a formal restriction, withdrawal of claims by original presentation is improper.

Since the Applicant voluntarily amended the claims on March 2, 2006, before the filing of the Petition under 37 CFR 1.144, the relief requested by the petitioner of having; the communication of February 14, 2006 withdrawn, the Office action May 2, 2006 vacated, and an examination of all claims filed October 31, 2005, will not be granted. However, the application will be forwarded to the examiner to make a formal restriction

requirement with respect to the amendment of Oct. 2, 2006. The Applicant will thus be given an opportunity to traverse and argue the specifics of the formal restriction requirement, and if desired, further amend the claims consistent with this formal restriction.

Therefore the Petitioner's request that the communication of February 14, 2006 be withdrawn, the Office Action of May 2, 2006 be vacated, and an examination take place on all claims filed October 31, 2005 is **DISMISSED**.

However, the Petitioner's argument that the restriction requirement must be formally presented is agreed with and the implied request thereof is being **GRANTED**.

SUMMARY: The Petition is **GRANTED-IN-PART.**

Any questions regarding this decision should be directed to Patricia Engle at 571-272-6660.

Donald T. Hajec, Director
Technology Center 3600
571-272-5150

SNM/ple : 11/07/06

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KANESAKA BERNER AND PARTNERS
PATENT AGENTS, LLP
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Mikio Nezu :
Application No. 10/804,074 :
Filed: March 19, 2004 :
Attorney Docket No. D-1569 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 24, 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(a)."

This application became abandoned for failure to timely reply to the non-final Office action mailed May 3, 2005. Accordingly, this application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on December 5, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

(2) The petition fee as set forth in § 1.17(l);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3), above.

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

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

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

As to item (1):

The required reply has not been submitted. As such, the petition must be dismissed.

As to item (3):

Petitioner states, in pertinent part:

> "I established a new Office of Hauptman Kanesaka Berner Patent Agents LLP on May, 2004 at 1700 Diagonal Road, Alexandria, VA 22314. The firm name was changed to Kanesaka Berner and Partners Patent Agents, LLP on October 2005 at the same address, i.e. 1700 Diagonal Road, Alexandria, VA 22314.
>
> "After I moved to the new address, I asked the office manager to change the address of all my files acting as a principle agent. The office manager contacted the Electronic Business Center of the Patent Office and obtained an electronic list in which I was present on the declaration at the time of filing the application. The address of the files was changed according to the list provided by the Patent Office.

"However, the present application was not included in the electronic list supplied by the Patent Office. Accordingly, the Office Action and the Notice of Abandonment were not delivered to me.

"As stated above, I changed the address of all the files under the supervision of the Office manager. However, since the list obtained from the Patent Office did not contain the present case, the address of the present application was not inadvertently changed at the Patent Office."

Please note MPEP 601.03: "Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code)."

Furthermore, a delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

As such, the burden and responsibility lies with petitioner to timely file a change of correspondence address with the Office. A reasonably prudent person in relation to their most important business would have confirmed any correspondence address data with their own docket records and files in order to assure the timely submission of a change of correspondence address with the Office.

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

Petitioner should consider filing a petitioner under 37 CFR 1.137(b).

The $500.00 petition fee under 37 CFR 1.17(l) will be charged to deposit account no. 11-0219.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

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PATENT AGENTS, LLP
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Mikio Nezu	:	
Application No. 10/804,074	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. D-1569	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, 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 May 3, 2005. Accordingly, this application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on December 5, 2005.

The file is being forwarded to Technology Center 3600 for review of the amendment filed April 27, 2006, *in due course*.

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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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OFFICE OF PETITIONS

In re Application of

Kanouda, et al. :

Application No. 10/804,122

: DECISION ON PETITION

Filed: March 19, 2004

:

Attorney Docket No. 520.43574X00

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 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 March 2, 2007, 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 June 3, 2007. A Notice of Abandonment was mailed on September 27, 2007.

A continuing application 11/849, 261 has been filed in response to the non-final Office action.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $1020.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2838 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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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

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OFFICE OF PETITIONS

In re Application of :
Jeffrey W. Johnson :
Application No. 10/804,127 :
Filed: March 19, 2004 :
Attorney Docket No. A220 1010.1 :

ON PETITION

This is a decision on the petition, filed August 24, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 1, 2006. A Notice of Abandonment was mailed on April 18, 2007. On August 24, 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 an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The Revocation and Power of Attorney filed August 24, 2007, has not been accepted, since the Power of Attorney is from an assignee but does not include the certificate required by 37 CFR 3.73(b). However, in accordance with 37 CFR 1.34(a), the signature of Steven J. Henry appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Henry desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The application is being referred to Technology Center AU 2164 for consideration of the amendment filed August 24, 2007.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEVEN J. HENRY
WOLF, FREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JAN 09 2009

In re Application of	:
Jeffrey Johnson	:
Filing Date: March 19, 2004	:
Application No.: 10/804,127	: DECISION
Attorney Docket No.: 10346.70000US01	:
For: SYSTEM FOR ACQUIRING AND	:
MANAGING DIGITAL RECORDS	:

This above-identified application has been forwarded to the undersigned for review of the propriety of an interview conducted on December 15, 2008.

The content of the interview and any agreement that may have been reached is void and the Office hereby treats the interview as a nullity.

BACKGROUND

On December 15, 2008, a paper granting permission for David Gesner to participate in a telephonic interview and granting him permission to communicate with the Examiner, which was signed by Steven Henry (Reg. No. 27,900) was received in the Office. David Gesner is not an applicant, nor is he registered to practice before the U.S. Patent & Trademark Office.

On December 15, 2008, a telephonic interview was conducted with Examiner Jacob Bétit, Supervisory Patent Examiner Tony Mahmoudi, David Gesner and Steven Henry.

David Gesner organized the interview and conducted the interview with the Examiner and the Supervisory Patent Examiner. David Gesner provided a summary of the invention and arguments for patentability of the claims. Steven Henry also participated in the interview.

On December 17, 2008, a response was received by the Office wherein on page 6 of the response, Steven Henry acknowledged the telephonic interview of December 15, 2008, in which he and David Gesner participated.

DECISION

37 CFR § 10.47 provides:
(a) A practitioner shall not aid a non-practitioner in the unauthorized practice of law before the Office.
(b) A practitioner shall not aid a suspended or excluded practitioner in the practice of law before the Office.
(c) A practitioner shall not aid a non-lawyer in the unauthorized practice of law.

37 CFR § 10.57 provides:
(a) "Confidence" refers to information protected by the attorney-client or agent-client privilege under applicable law. "Secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.
(b) Except when permitted under paragraph (c) of this section, a practitioner shall not knowingly:
(1) Reveal a confidence or secret of a client.
(2) Use a confidence or secret of a client to the dis-advantage of the client.
(3) Use a confidence or secret of a client for the advantage of the practitioner or of a third person, unless the client consents after full disclosure.
(c) A practitioner may reveal:
(1) Confidences or secrets with the consent of the client affected but only after a full disclosure to the client.
(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.
(3) The intention of a client to commit a crime and the information necessary to prevent the crime.
(4) Confidences or secrets necessary to establish or collect the practitioner's fee or to defend the practitioner or the practitioner's employees or associates against an accusation of wrongful conduct.
(d) A practitioner shall exercise reasonable care to prevent the practitioner's employees, associates, and others whose services are utilized by the practitioner from disclosing or using confidences or secrets of a client, except that a practitioner may reveal the informa-tion allowed by paragraph (c) of this section through an employee.

The MPEP § 713.05 provides:

> Office employees are forbidden to hold either oral or written communication with an unregistered or a suspended or excluded attorney or agent regarding an application unless it is one in which said attorney or agent is the applicant. See MPEP § 105. . . . Note that pursuant to 37 CFR 10.57(c), a practitioner cannot authorize other registered practitioners to conduct interviews without consent of the client after full disclosure. Furthermore, a practitioner can not authorize a nonpractitioner to conduct interviews since this would be contrary to 37 CFR 10.47.

A search of the Office records reveals that David Gesner is not a registered practitioner nor is he an applicant of the above-identified application. Steven Henry, a registered practitioner is

without authority to authorize David Gesner, a nonpractitioner, to conduct an interview as a practitioner can not authorize a nonpractitioner to conduct an interview.

CONCLUSION

The Office considers the interview of December 15, 2008 a nullity as it was conducted by an improper person. Any agreement that may have been reached at the interview is considered as void or a nullity. [1]

Telephone inquiries concerning this decision should be directed to Mark Polutta at (571) 272-7709.

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See CHANDRIS v. YANAKAKIS, 668 So.2d 180 (Fla.1995) (out of state attorney engages in unauthorized practice of law where that attorney enters into contingent fee agreement in state (Florida) thereby rendering that fee agreement void); Duncan v. Gordon, 476 So.2d 896 (La.App. 2 Cir. 1985) (any contract by a .non-lawyer who renders services in violation of state law is for an unlawful cause, and consequently, the contract is against public policy and absolutely null).

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

In re Application of	:	
Michael C. Webb	:	
Application No. 10/804,139	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 37356-195205	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2005, to revive the above-identified application. This is also a decision on the Request to Withdraw A Petition For Revival filed January 19, 2006.

The petition under 37 CFR 1.137(b) is **Dismissed** as Moot.

The petition is dismissed as moot in view of the **request to withdraw the petition to revive filed January 19, 2006.** Additionally, the petition fee of $750 and the terminal disclaimer fee of $65 will be refunded as requested.

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

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

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James C. Wary
1493 Chain Bridge Road
Suite 300
Mclean, VA 22101

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OFFICE OF PETITIONS

In re Application of	:	
Kiril A. Pandelisev	:	
Application No. 10/804,152	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. PHOENIX	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to James C. Wary has been revoked by the assignee of the patent application on March 27, 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: **Cermak & Kenealy, LLP**
515 East Braddock Rd., Suite B
Alexandria, VA 22314

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KENEALY VAIDYA LLP
515 EAST BRADDOCK RD SUITE B
Alexandria VA 22314

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Kiril A. PANDELISEV	:	
Application No. 10/804,152	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 3027-0032	:	

This is a decision on the petition, filed December 29, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Petitioner request withdrawal of the Notice of Abandonment mailed October 29, 2009 for failure to file an Appeal Brief within two months of the date of filing the Notice of Appeal filed April 02, 2009. Petitioner asserts that the abandonment was prematurely issued; stating that the period of time for filing a response should have been extendable to November 02, 2009.

A review of the Office records indicates that the applicant's time period for reply with extension of times was in fact due by November 02, 2009. However, the required reply was not submitted with the petition, therefore the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/06/09

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10804162 Patent No.: 6937757 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 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: The corrections do not introduce new matter nor does it affect the scope & meaning of the claims.

SAMIR AHMED
SUPERVISORY PATENT EXAMINER

SPE

2624
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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED

JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Yoshifumi Sanuki, Junichi :
Kubota and Shushi Takiyama : DECISION GRANTING PETITION
Application No. 10/804,172 : UNDER 37 CFR 1.47(a)
Filed: March 19, 2004 :
Title: IDENTIFIER ASSIGNMENT
SYSTEM, METHOD, AND PROGRAM

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 22, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

The file is being forwarded to Technology Center 2600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUNICHI KUBOTA
3-5-22-201, MASUGATA
TAMA-KU
KAWASAKI-SHI, KANAGAWA
214-0032
JAPAN

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of
Yoshifumi Sanuki, Junichi Kubota and Shushi Takiyama
Application No. 10/804,172
Filed: March 19, 2004
Title: IDENTIFIER ASSIGNMENT SYSTEM, METHOD, AND PROGRAM

Dear JUNICHI KUBOTA:

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)272-3228. 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).

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LOWE HAUPTMAN GILMAN
AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300/310
ALEXANDRIA, VA 22314

COPY MAILED
JUL 1 6 2004
OFFICE OF PETITIONS

In re Application of :
Yrjo Soulahti :
Application No. 10/804,189 :
Filed: March 19, 2004 : ON PETITION
Attorney Docket Number: :
713-1056 :

This is a decision on the Petition, filed June 15, 2004, requesting the application be accorded a filing date of March 19, 2004, including drawing Figures 1 - 8 described in the specification.

The petition is **granted**.

The application was filed on March 19, 2004. However, on June 1, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had not been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that four (4) sheets of drawings were originally filed with the application on March 19, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 4 sheets of drawings on March 19, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of four (4) sheets of drawings on March 19, 2004. Petitioner has also re-submitted four (4) sheets of drawings, comprising Figures 1 - 8, with the instant petition.

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

The copy of 4 sheets of drawings, comprising Figures 1 - 8, supplied on June 15, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 07-1337 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of March 19, 2004, and an indication that 4 sheets of drawings were present on filing, using the 4 sheets of drawings filed on June 15, 2004.

Applicant is reminded that the oath or declaration and late filing fee, oath or declaration, and the basic filing fee remain due.

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Martin Baumert, et. al.	:	
Application No. 10/804,191	:	DECISION ON PETITION
Filed: March 19, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. ATOCM-0349	:	

This is a decision on the petition under 37 CFR 1.55(c), filed November 14, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign French Application No. 03/03494, filed March 21, 2003.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 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.

This application was filed on March 19, 2004, which is after November 29, 2000 and within 12 months of March 21, 2003 (the filing date of the foreign application to which benefit is now being claimed). On August 2, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The Office acknowledges receipt of Priority papers filed on December 12, 2005.

A review of the record reveals that the Office acknowledged provisional Application No. 60/508,966, as so indicated on the filing receipt mailed June 1, 2004. However, there is no indication that petitioner submitted a proper priority claim to the provisional application. If petitioner desires to claim priority to provisional Application No. 60/508,966, a proper amendment to the first line of the specification should be submitted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 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 application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) 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 reflects the above-noted foreign application, was mailed on February 17, 2005.

This application is being referred to Technology Center AU 1772 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Andrea Smith at (571) 272-3226.

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

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OCT 16 2006
OFFICE OF PETITIONS

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON DC 20005-2221

In re Application of	:	
SAUDERS, et al.	:	
Application No. 10/804,198	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. SAMS-005/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

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

A review of the file record indicates that the power of attorney to Christopher R. Hutter and the attorneys associated with customer number 22903 have been revoked by the assignee of the patent application on August 31, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Wei Wei Jeang
HAYNES & BOONE LLP
2505 N. Plano Road Suite 4000
Richardson, TX 75082

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
10/804,198	03/19/2004	Stuart B. Saunders	SAMS-005/00US

CONFIRMATION NO. 6517

OC000000020769228

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

Date Mailed: 10/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2006.

- 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).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Kevin M. Daniel et al.
Application No. 10/804,202
Filed: March 19, 2004
Attorney Docket No. 3691-618

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

This is in response to the petition filed October 26, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on March 19, 2004, naming Kevin M. Daniel, Robert V. Himebaugh, Mark A. Schreiner and Andrew T. Billiu 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 October 26, 2004, an oath or declaration executed by joint inventors Daniel, Himebaugh and Schreiner, a petition under 37 CFR 1.47(a) and three month extension of time was filed. The petition argues that joint inventor Andrew Billiu refuses to sign the oath or declaration or has disappeared and cannot be located but that they, the petitioners have attempted to locate him and have him sign.

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

The petition bears proof that efforts to have nonsigning inventor Billiu execute the Oath or Declaration included an email message to the last known email address, a letter to the last known work address and two letters to the last known physical address for Mr. Billiu but none resulted in a response from the nonsigning 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 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 3634 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Sarita Chaudhary	: DECISION ON REQUEST FOR
Patent Number	: 7642346	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **779** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/8/07

Paper No.: ____

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/804249 Patent No: 7082075 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE AU 2824 /Richard T. Elms/ Richard Elms 3.10.08 2824

SPE **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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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Mitchell Berman	:	
Application No. 10/804,250	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 5199-85	:	

This is a decision on the petition, filed March 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application was held abandoned for failure to reply to the non-final Office action mailed June 22, 2007, which set a three (3) month shortened statutory period for reply. This decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Office action dated June 22, 2007 was not received. Petitioner contends a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was mailed January 20, 2006. In support of petitioner's argument, petitioner has provided a copy of a postcard and a transmittal form, which contains a certificate of mailing dated January 20, 2006. Petitioner argues that the Office action was not received because the change of address was not entered and the Office action was mailed to the incorrect address.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted

correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. The Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has failed to meet requirement (3). In order to establish that the June 22, 2007 Office action was mailed to the incorrect address; petitioner needs to provide additional information. Petitioner must provide a statement which attest on personal knowledge that the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was mailed on January 20, 2006. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). A review of the certificate of mailing shows that Paul Ragusa executed it. Mr. Ragusa has not provided a statement nor has Attorney Schalk provided a sufficient statement.

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 postcard provided to establish prior receipt of the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address does not serve as prima facie evidence because it does not contain the Office stamp.

Further, a review of the recorded assignment documents does not show the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence was inadvertently recorded.

If petitioner is unable to establish the Office action was mailed to the incorrect address. Petitioner may wish to file a petition under 37 CFR 1.137(b). A courtesy copy of the June 22, 2007 Office action is being provided for petitioner convenience.

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

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,250	03/19/2004	Mitchell F. Berman	5199-85	7474

7590 06/22/2007
Leslie Gladstone Restaino, Esq.
Brown Raysman Millstein Felder & Steiner LLP
163 Madison Avenue,
P.O. Box 1989
Morristown, NJ 07962-1989

EXAMINER
MATTER, KRISTEN CLARETTE

ART UNIT	PAPER NUMBER
3771	

MAIL DATE	DELIVERY MODE
06/22/2007	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.

Office Action Summary	Application No.	Applicant(s)	
	10/804,250	BERMAN, MITCHELL F.	
	Examiner	Art Unit	
	Kristen C. Matter	3771	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 19 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) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-10 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 23 September 2004 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

> The oath or declaration is defective because:
> It does not 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 37 CFR 1.56.

In the present case, "37 CFR 1.56(a)" should be replaced with --37 CFR 1.56--.

Drawings

The drawings are objected to because on Figure 1, reference character "104" is shown twice, once without actually identifying any structure. In addition, Figures 2-4 do not have any reference characters, making it unclear what is being shown in the figure, where the claimed elements are located, and how the parts fit together.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 2 is objected to because of the following informalities: on line 1, "adopted" should be replaced with --adapted-- to fix the typographical mistake. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the present case, claim 1 recites that the display is mounted "so as not to protrude from the frame". This is not supported in the specification because as clearly seen from figure 1, the displays protrude from the top of the frame. Claims 2-10 are dependent on claim 1 and are therefore rejected for the reasons outlined above with respect to claim 1.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, it is unclear as to whether the display is part of the anesthesia machine or a separate element because the claim recites that the display is "adjustably attached to the frame" on line 2, but also recites that the display is mounted "in the anesthesia machine" on line 3. Claims 2-10 are dependent on claim 1 and are therefore rejected for the reasons outlined above with respect to claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Phoon et al. (US 2002/0013640).

Regarding claims 1, 5, and 7, Phoon et al. disclose an apparatus for hold anesthesia comprising at least one display (118) and keyboard (120) adjustably attached to a frame (102) so that the display does not protrude form the frame. The apparatus is considered an "anesthesia

machine" inasmuch as the apparatus is a machine and is used with anesthesia and is adapted for use in an operating room (paragraph 0015).

Regarding claims 2 and 9, Phoon et al. disclose that the display is adapted for patient monitoring and automated record keeping (paragraph 0015).

Regarding claims 3 and 4, Phoon et al. discloses that the display is able to tilt and move in an up-down direction with respect to the frame (See Figures 4A and 4B).

Regarding claim 10, Phoon et al. discloses computing programs associated for capturing patient preoperative data and operative data (paragraph 0015 and Figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phoon et al. as applied to claims 1-5, 7, 9, and 10 above and further in view of Tsai (US 6,644,874). Phoon et al. is silent as to the keyboard being waterproof. Tsai discloses a waterproof keyboard (column 1, line 60-column 2, line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the keyboard disclosed by Phoon et al. waterless as taught by Tsai in order to protect the keyboard from water damage that may occur in the operating room.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phoon et al. as applied to claims 1-5, 7, 9, and 10 above and further in view of Huilgol et al. (US 5,708,561). Although Phoon et al. discloses a mounting arm (124) having one end adjustably attached ot the display and the other end adjustably attached to the frame, Phoon et al. is silent as to a horizontal sliding track to provide movement in a fore and aft or left and right movement. Huilgol et al. disclose a computer (display/keyboard assembly) with a horizontal sliding track (56) that is able to provide movement in at least one of a fore and aft or left and right direction depending on the orientation of the mounting arm (see figure 6 and column 5, line 60-column 6, line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided Phoon et al.'s display with a horizontal sliding track as taught by Huilgol et al. in order to allow the computer screen to swivel from a portrait to landscape orientation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clark et al. and Ido et al. are cited to show other sliding tracks. Schreiber et al., Roberts, and Blair et al. are cited to show other anesthesia machine frames with adjustable displays.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen C. Matter whose telephone number is (571) 272-5270. The examiner can normally be reached on Monday - Friday 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCMatter
Kristen C. Matter
Examiner
Art Unit 3771

JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
6/18/07

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NEW YORK NY 10112-4498

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JUN 1 3 2008

OFFICE OF PETITIONS

In re Application of :
Mitchell Berman :
Application No. 10/804,250 : DECISION ON PETITION
Filed: March 19, 2004 :
Attorney Docket No. 5199-85 :

This is a decision on the renewed petition, filed April 17, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non final Office action mailed June 22, 2007, which set a three (3) month shortened statutory period for reply. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.181 was dismissed on March 25, 2008.

Petitioner asserts that the Office action dated June 22, 2007 was not received. Petitioner contends that the non-final Office was not received because a change of correspondence address was not entered as such the Office action was mailed to the wrong address.

A review of the written record indicates an irregularity in the mailing of the Office action of June 22, 2007. In this regard, the Office received a change of address on via certificate of mailing on January 20, 2006, prior to the mailing of the Office action of June 22, 2007. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3771 for remailing the Office action of June 22, 2007 and resetting the period for reply.

Charlema Grant
Petitions Attorney
Office of Petitions

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JJGJR.: 07-06

Paper No: __

QUALCOMM INCORPORATED
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SAN DIEGO CA 92121

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Jain, et al. :
Application No. 10/804,267 :
Filing Date: 18 March, 2004 :
Attorney Docket No.: 030259U3 :

DECISION

This is a decision on the petition filed on 28 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office (*ex parte* Quayle) action mailed on 10 June, 2005, with reply due absent extension of time on or before 10 August, 2005;
- the instant application went abandoned after midnight 10 August, 2005;
- the Office mailed a Notice of Abandonment 17 January, 2006;
- on 28 April, 2006, Petitioner filed the instant petition (with fee), reply in the form of an amendment, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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.[8]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

[8] 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.

As to the Allegation
of Unintentional Delay

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

The record (including the petition filed on 28 April, 2006) does not necessitate a finding that the delay between midnight 10 August, 2005 (date of abandonment), and 28 April, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Jain and Collins and Counsel Peng Zhu (Reg. No. 48,063) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

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

CONCLUSION

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

The instant application is released to Technology Center 2600 for further processing in due course.

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

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

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[9] 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Benjamin J. Esposito	: DECISION ON REQUEST FOR
Patent Number	: 7613760	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,294	: 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 **1573** 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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RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of :
Smith et al. : DECISION ON PETITION
Application No. 10/804,331 :
Filed: March 19, 2004 :
Attorney Docket No. 9368.5 :

This is a decision on the petition under 37 CFR 1.53, filed November 24, 2004, requesting that the above-identified application be accorded a filing date of March 19, 2004, with 1 sheet of drawings as part of its original disclosure.

On March 19, 2004, applicants deposited the above-identified application. On September 27, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating, *inter alia*, that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings.

In response, on November 24, 2004, applicants filed, *inter alia*, the present petition and a copy of applicants' postcard receipt acknowledging receipt of 1 sheet of drawings on March 19, 2004. Additionally, applicants submitted 1 sheet of drawings with the present petition.

Upon review of the record, the 1 sheet of drawings, deposited on March 19, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2004, included 1 sheet of drawings, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the 1 sheet of drawings, was complete on filing and will be granted a filing date of March 19, 2004.

Accordingly, the petition is granted.

The requirement for drawings set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, no petition fee is necessary.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of March 19, 2004**, using the 1 sheet of drawings submitted on November 24, 2004, as part of the original disclosure, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS & ANGELL
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	
Nobuyuki Takamori et al	:	
Application No. 10/804,328	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 61,032 (70904)	:	

This is a decision on the petition, filed May 19, 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 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1774 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. _____

Date : May 22, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Nobuyuki Takamori et al
Application No. :10/804,328
Filed :March 18, 2004

The above-identified application has been assigned Patent No. 7,052,758 and an issue date of May 30, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 30, 2006:

"All reference to Patent No. 7,052,758 to Nobuyuki Takamori et al of Japan for OPTICAL INFORMATION RECORDING MEDIUM, RECORDING AND READOUT METHODS USING THE SAME, OPTICAL INFORMATION REORDING DEVICE, AND OPTICAL INFORMATION READOUT DEVICE appearing in the Official Gazette of May 30, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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EDWARDS & ANGELL LLP
P O BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of	:
Nobuyuki Takamori et al	:
Application No. 10/804,328	: DECISION GRANTING PETITION
Filed: March 18, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61,032 (70904)	:

This is a decision on the petition, filed January 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid 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 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement stated to have been filed of even date.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb10\804328.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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RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/804,331	:	DECISION GRANTING PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 9368.5	:	

This is a decision on the petition filed November 24, 2004, requesting that the above-identified application be accorded a filing date of March 19, 2004. The petition was recently forwarded to the Office of Petitions. The undersigned rendered a decision on the merits of the petition immediately after receipt in the Office of Petitions. The Office sincerely apologizes for any inconvenience.

On March 19, 2004, applicants deposited the above-identified application. On September 27, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating, *inter alia*, that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

In response, on November 24, 2004, applicants submitted, *inter alia*, the present petition, one sheet of drawings (Figure 1), and a returned, date-stamped postcard receipt. The postcard acknowledged receipt of 1 sheet of drawings in the United States Patent and Trademark Office (USPTO) on March 19, 2004.

Upon review of the record, the 1 sheet of drawings, deposited on March 19, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2004, included 1 sheet of drawings, which was subsequently misplaced in the USPTO. Therefore, the application including the 1 sheet of drawings (Figure 1), was complete on filing and will be granted a filing date of March 19, 2004.

Accordingly, the petition is **granted**.

The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby withdrawn.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of March 19, 2004**, using the 1 sheet of drawings (Figures 1) submitted on November 24, 2004, and to mail a corrected filing receipt.

Any 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

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

William J. Bonifacio
107 Wickham Drive
Williamsville NY 14221

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AUG 1 1 2008

In re Application of	:	
William J. Bonifacio et al.	:	
Application No. 10/804,370	:	DECISION ON PETITION
Filed: March 19, 2004	:	PURSUANT TO
Title: MACHINE FOR REMOVING	:	37 C.F.R. § 1.137(A)
SUMP PIT WATER AND PROCESS FOR	:	
MAKING SAME	:	

This is a decision on the petition filed July 21, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 7, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 8, 2007. A notice of abandonment was mailed on May 16, 2008.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[1]

The burden of showing the cause of the delay is on the person seeking to revive the application.[2]

"[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."[3] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4]

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1 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

2 Id.
3 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

4 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action.[5]

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[6]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[8]

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);

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5 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
6 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

Receipt of the petition fee is acknowledged, along with a specification, claims, an abstract, and drawings. Petitioner has met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not necessary. **The first and third requirements of Rule 1.137(a) have not been met.**

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[9] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(a)(1) (i.e., either an amendment or arguments directed towards the non-final rejection). **The petition was not accompanied by either an amendment or arguments directed towards the non-final rejection.**

Regarding the third requirement, it has not been established that the entire period of delay was unavoidable.

Petitioner has indicated that the non-final Office action of August 7, 2007 was received, the two inventors commenced preparing a response, and co-inventor Belle's input was "integral" to the preparation of said response. However, in October of 2007, Mr. Belle "began to demonstrate increased symptoms of his already existing medical condition," and suffered serious medical problems that continue to this day. At an unspecified time, Mr. Belle became well enough to resume contributing to the preparation of said response.

Moreover, Petitioner has included:

- a copy of a document from "Erie County Medical Center Corporation," which contains writing that is illegible, and

9 See M.P.E.P. § 711.03(c).

as such, this paper has not been considered by the undersigned;

- papers related to smoking and heart disease;
- a listing of medications;
- two bills from the Twin City Ambulance Corporation, and
- a paper entitled "vascular access discharge orders/instructions."

On renewed petition, **Petitioner must explain why he was unable to compose a response to the non-final Office action without the input of co-inventor Belle.**

Petitioner's submission is being construed to contain an assertion that the entire period of delay was unavoidable due to the medical incapacitation of co-inventor Belle. Medical incapacitation is an avenue by which an applicant can successfully establish that the entire period of a delay was unavoidable. A showing of "unavoidable" delay based upon medical incapacitation must establish that the incapacitation of co-inventor Belle was of such a nature and degree as to render him unable to contribute in the preparation of a response to the non-final Office action.

However, it is noted that a statement from co-inventor Belle has not been provided. Petitioner cannot assert medical incapacitation on behalf of co-inventor Belle: on renewed petition, **a statement from co-inventor Belle must be provided** which asserts medical incapacitation during the entire period between November 8, 2007 until the filing of a grantable petition. Such a showing must be **supported by a statement from co-inventor Belle's treating physician**, and such statement must provide the nature and degree of petitioner's incapacitation during the above-mentioned period. More specifically, the statement from the physician should describe the debilitating effects of the injury, the debilitating effects of any resulting therapy, and the debilitating effects of any medication that Mr. Belle took during this period.

Furthermore, the renewed petition must contain an **explanation of why a proper response was not provided with this petition.** Petitioner should note that it is the entire period of delay, from the due date for the reply until the filing of a <u>grantable</u> petition, which must be shown to have been unavoidable.

Petitioner is cautioned to avoid submitting confidential information that may contribute to identity theft.

Specifically, Petitioner should consider redacting social security, bank account, or credit card numbers from any documents submitted to the USPTO. This type of personal data is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted may be disclosed, as a routine use, to the public after either publication of the application, unless a non-publication request is made in the application, or issuance of a patent. Further, a record may be disclosed, subject to the limitations of 37 C.F.R. § 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.

If Petitioner has supplied papers that contain any of the above-identified confidential information that has not been redacted, Petitioner may provide a redacted copy of the same to the Office. If accompanied by a statement that the redacted version is identical to the originally submitted copy, but for the redactions, the redacted copy will be placed into the electronic file and the original electronic copy will be removed from view.

CONCLUSION

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

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[10], hand-delivery[11], or facsimile[12]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[13].

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10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
12 (571) 273-8300- please note this is a central facsimile number.
13 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

Alternatively, Petitioner may also file a petition pursuant to 37 C.F.R. § 1.137(b), which carries with it a much lower standard. Unless Petitioner believes that he can successfully establish that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard. Petitioner may download information about these petitions at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[14].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

14 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 1 2 2008

In re Application of	:	
Hang-Dony KUAN et al.	:	
Application No. 10/804,374	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. TI-36952	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 01, 2008 , to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 21, 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 November 22, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $510.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to Notice of Appeal filed September 21, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2829 for appropriate action on the concurrently filed appeal brief.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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MURRAY HILL NJ 07974-0636

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SEP 16 2008

OFFICE OF PETITIONS

In re Application of	:
GARRETT, DAVID	:
Application No. 10/804,411	: DECISION ON PETITION
Filed: 03/19/2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 12	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 2, 2008 (certificate of mailing dated June 27, 2008), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being

construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2611 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/804,411	03/19/2004	2611	900	12	3	1

CONFIRMATION NO. 7365

CORRECTED FILING RECEIPT

22046
DOCKET ADMINISTRATOR
LUCENT TECHNOLOGIES INC.
ROOM 2F-192
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974-0636

OC000000032056747

Date Mailed: 09/12/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Garrett, Old Bridge, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 22046

Domestic Priority data as claimed by applicant

This application is a CIP of 10/231,980 08/30/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/804,411**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of sphere decoding with low complexity and good statistical output

Preliminary Class

375

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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Baker Botts L.L.P
910 Louisiana Street, One Shell Plaza
HOUSTON, TX 77002

Mail Date: 04/20/2010

Applicant	: Pankaj Bishnoi	: DECISION ON REQUEST FOR
Patent Number	: 7603498	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

CONLEY ROSE, P.C.
P.O. BOX 684908
AUSTIN, TX 78768

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Chandler et al. :
Application No. 10/804,451 :
Filed: March 19, 2004 :
Attorney Docket No. 5868-02804 :
Title: CREATION OF A DATABASE OF :
BIOCHEMICAL DATA AND METHODS OF USE:

DECISION ACCORDING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a), filed September 7, 2004.

The petition is **GRANTED**.

The above-identified application was filed on March 19, 2004, without an executed oath or declaration. Accordingly, on June 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicant filed the instant petition (and fee); the late surcharge; and a declaration executed by inventor Van Chandler on behalf of himself and on behalf of non-signing joint inventor Mark Chandler. This response was made timely by an accompanying petition and fee for extension of time for response within the first month. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Mark Chandler 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 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.

By statement of facts of patent agent Ann Marie Mewherter, and supporting documentary evidence, petitioner has shown that the non-signing inventor has, by his conduct, refused to join in the filing of the above-identified application after having been presented with the application papers. The petition includes

payment of the petition fee and the last known address of inventor Chandler.

The declaration filed September 7, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD, SUITE 310
ATLANTA GA 30339

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APR 18 2007
OFFICE OF PETITIONS

In re Application of	:	
Monte **DAVIS**	:	
Application No. 10/804,454	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 30160-RA	:	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 16, 2007.

The request is **APPROVED**.

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

The request was signed by Barry Kaplan on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Monte Davis at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MONTE DAVIS**
1425 MARKET BOULEVARD, SUITE 330
BOX 219
ROSWELL, GA 30076

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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE, SUITE 200
LAKEWOOD CO 80226

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OFFICE OF PETITIONS

In re Application of	:	
Sandra E. RING, et al.	:	
Application No. 10/804,469	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO WITHDRAW
Attorney Docket No. 2046	:	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 31, 2006 and re-submitted August 1, 2006.

The request is **APPROVED**.

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

The request was signed by Michael R. Henson 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: SANDRA E. RING
9 FORREST STREET
ALEXANDRIA, VA 22305

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JUN 16 2006

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:	
Fernando Gonzalez et al	:	
Application No. 10/804,477	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 11675.22.2.1.3.1	:	

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 February 15, 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 2823 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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Paper No. _____

Date : June 16, 2006

TO : Director, Office of Patent Publication

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JUN 16 2006
OFFICE OF PETITIONS

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Fernando Gonzalez et al
Application No. :10/804,477
Filed :March 19, 2004

The above-identified application has been assigned Patent No. 7,067,851 and an issue date of June 27, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 27, 2006:

"All reference to Patent No. 7,067,851 to Fernando Gonzalez et al of Idaho for VERTICAL DIODE STRUCTURES appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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jal
Paper Number

Mailed: DEC 19 2005

In re application of :
William Horsfall et al. :
Serial No. 10/804,482 :
Filed: March 18, 2004 :
For: LAMP REFLECTOR SUBSTRATE, GLASS, GLASS-CERAMIC MATERIALS AND PROCESS FOR MAKING SAME :

DECISION ON PETITION

This is in response to the PEITITION UNDED CFR 1.84 REGARDING THE SUBMISSION OF BLACK AND WHITE PHOTOGRAPHS AS FIGURES IN A PATENT APPLICATION filed November 23, 2005.

Although photographs are not ordinarily permitted in utility and design patent applications, the Office will accept, as set forth in 37 CFR 1.84(b)(1), ". . . photographs in utility and design patent applications if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of . . . ***crystalline structures*** . . . are acceptable."

As the instant black and white photographs are TEM photomicrographs, a petition under 37 CFR 1.84 is not required. The photographs will be entered into the application file.

It is further noted that the instant petition was accompanied by $130.00 as a petition fee. However, as this petition is not required, a refund of the $130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **DISMISSED**.

J.A. Lorengo
Supervisory Patent Examiner
Technology Center 1700

CORNING INCORPORATED
PATENT DEPARTMENT
Mail Stop SP-TI-03-1
Corning, NY 14831

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Vincent J. Zimmer, et al.	:	
Application No. 10/804,489	:	DECISION ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 42P18506	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 11, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 11, 2008. Accordingly, the date of abandonment of this application is December 12, 2008. The Notice of Abandonment was mailed January 7, 2009.

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

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

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

Brian Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TECHNOLOGY CENTER 2600

RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

In re Application of: Brian W. CASTO, et al. Serial No.: 10/804,493 Filed: March 18, 2004 Attorney Docket Number: **ICN.P0001** Title: SECURE INTEGRATED MOBILE INTERNET PROTOCOL TRANSIT CASE	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 November 13, 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.

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.

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
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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DIW Aug-07

KEITH CANGIARELLA
331 N HARRINGTON DRIVE
FULLERTON CA 92831

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith Cangiarella	:	
Application Number: 10/804499	:	ON PETITION
Filing Date: 03/19/2004	:	
For: NOVELTY MESSAGE KIT	:	

This is a decision on the "Petition to reset a period of Response," filed on 27 April, 2007, which is treated as a petition to withdraw holding of abandonment.

This application became abandoned on 14 December, 2006, for failure to file a timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 13 November, 2006, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner, *pro se*, states that he never received the Notice mailed on 13 November, 2006. Petitioner argues, essentially, that the application should not be considered abandoned, but rather that the Notice should be remailed, and a new period of reply set, because the USPS failed to deliver the Office correspondence.

Petitioner's argument has been considered, but is not persuasive.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office letter was not in fact received. However, petitioner has not met the showing required to establish nonreceipt of an Office letter. To establish nonreceipt of an Office communication, a petitioner must: 1) include a statement that the Office communication was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record **where the nonreceived Office action would have been entered had it been received and docketed.**"[2] "For example, if a three-month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted…"[3]

However, as petitioner is a *pro se* applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice mailed on 13 November, 2006, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to petitioner's most important business.

As such the application is properly held abandoned.

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

ALTERNATIVE VENUE

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

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

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

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

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

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

intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

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

Telephone inquiries 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

Encl: PTO/SB/64

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH CANGIARELLA
331 N HARRINGTON DRIVE
FULLERTON CA 92831

COPY MAILED

OCT 1 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith Cangiarella	:	DECISION ON PETITION TO
Application Number: 10/804499	:	WITHDRAW HOLDING OF
Filing Date: 03/19/2004	:	ABANDONMENT
For: NOVELTY MESSAGE KIT	:	

This is a decision on the renewed petition filed on 27 August, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on 14 December, 2006, for failure to file a timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 13 November, 2006, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment. The petition filed on 27 April, 2007, was dismissed on 9 August, 2007.

Petitioner, *pro se*, again asserts that he never received the Notice mailed on 13 November, 2006.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

However, as petitioner is a *pro se* applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice mailed on 13 November, 2006, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to petitioner's most important business.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by inventor Keith Cangiaralla stating that the Notice action was never received. Petitioner has also explained the system he uses for tracking and docketing mail from the USPTO, and has provided a copy of his mail log, prepared in Microsoft Word. A copy of petitioner's mail log for the application, showing where receipt of the Notice mailed on 13 November, 2006, would have been entered had the Notice in fact been received, is supplied with the petition.

The petitioner has made a sufficient showing of nonreceipt of the Notice mailed on 13 November, 2006. Consequently, there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

As petitioner has supplied a response to the Notice mailed on 13 November, 2006, with the original petition, remailing of the Notice is unnecessary. The application will be referred to the Technology Center for consideration of petitioner's response to the Notice.

The application file is being referred to Technology Center Art Unit 3728 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 26, 2009

Patent No. :7521405
Inventor :Peng Zhang et al.
Patent Issued :April 21, 2009
Title :PROCESS SOLUTIONS CONTAINING SURFACTANTS

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to Column 27, line 10, claim 11; the printed data in the letters patent with regard to applicants request is considered in accordance with the records within the Patent and Trademark office and is therefore unwarranted entry as filed. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction

In view of the foregoing applicants request in this matter is hereby denied.

If further consideration is desired, applicant should submit 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. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Law Group
Air Products and Chemicals, Inc.
7201 Hamilton Blvd.

/arg

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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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Larry Holmberg	: DECISION ON REQUEST FOR
Patent Number	: 7619676	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,548	: 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 **1634** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Ching-Fong Su	: DECISION ON REQUEST FOR
Patent Number	: 7623543	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1640** 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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Allen, Dyer, Doppelt, Milbrath & Gilchrist, PA
P.O. Box 3791
Orlando, FL 32802-3791

DEC 01 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Thomas Worrell, et al.
Application No. 10/804,567
Filed: March 19, 2004
For: CONSTRUCTION OVERLAY COMPOSITION AND WALL STRUCTURE

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENT) OR (ENERGY)

This is a decision on the petition filed on March 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 V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

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.

Applicants' invention relates to a fortified adobe-type construction composition and wall structure.

Applicants' petition includes a statement by applicants' agent, Jacqueline E. Hartt, PhD.

The thrust of Ms. Hartt's statement is that the "present invention is directed to a construction composition that is low cost and aesthetically pleasing, while incorporation indigenous materials and recycling flyash into a useful construction composition." And, that "(a)nother aspect of the invention is a wall structure that includes environmentally friendly and/or recycled materials."

The statement by applicants' agent is insufficient to grant either a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section VI: Energy. In this regard, petitioner has failed to show a direct link between the construction composition and wall structure, of the above-noted application, and either a material enhancement in the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, or a material contribution to the utilization and conservation of energy sources.

The petition to make special based on Environmental Quality is **DISMISSED.**

The petition to make special based on Energy 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 11/23/04

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 09-04

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

COPY MAILED

SEP 22 2004

OFFICE OF PETITIONS

In re Application of	:
Donn P. Cummings	: DECISION GRANTING
Application No. 10/804,570	: PETITION
Filed: 19 March, 2004	:
Attorney Docket No. DEKA:328US	:

This is a decision on the petition under 37 CFR 1.53, filed on 12 August, 2004, requesting that the above-identified application, without drawings, be accorded a filing date of 19 March, 2004.

The application was filed on 19 March, 2004, without drawings.[1] Accordingly, on 9 June, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 12 August, 2004 (certificate of mailing date 9 August, 2004), the present petition was filed.

Petitioner states that the drawings were not present among the application papers filed on 19 March, 2004, but argues that the drawings are not necessary because the application contains process claims.

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] A review of the record reveals that Claims 15-17 are process claims and Claims 19-23 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an

[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).

understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted with the present petition is unnecessary and will be credited to counsel's deposit account, No. 50-1212 as authorized in the present petition.

The "Notice of Incomplete Nonprovisional Application" mailed on 9 June, 2004, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

The application will be processed and examined using only the application papers filed on 19 March, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 19 March, 2004, using only the application papers present on filing.

Telephone inquiries specific to this matter 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

Commissioner for Patents
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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

COPY MAILED

DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Francis L. Garing	:	
Application No. 10/804,571	:	DECISION ON PETITION
Filed: 19 March, 2004	:	
Atty Docket No. DEKA:319US	:	

This is a decision on the petition filed on 30 September, 2005, under 37 CFR 1.53(e), which is treated as a petition to accord the above-identified application a filing date of 19 March, 2004.

The petition is **GRANTED**.

On 19 March, 2004, the application was deposited without drawings.

On 3 March, 2005, 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 indicated that the statutory basic filing fee, an oath or declaration, and the surcharge for their late filing were also required.

In response, on 30 September, 2005, the present petition was filed. Petitioner concedes that no sheets of drawings have been filed, but state that drawings are not required because the application contains at least one process claim.

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 Claims 15, 16, and 17 are process claims and Claims 19-23 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted with the present petition is unnecessary and will be credited to counsel's deposit account, No. 50-1212, as authorized in the present petition.

The "Notice of Incomplete Nonprovisional Application" mailed on 3 March, 2005, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

Receipt of the declaration, basic filing fee, surcharge, additional claim fee(s), and preliminary amendment is acknowledged.

The application will processed and examined using the papers filed on 19 March, 2004 as the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 19 March, 2004, using only the application papers filed on that date.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.01(f).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-6-07

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/804152 Patent No.: 7165317

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 Inventors

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: There are only two inventors (Russell A. Warnecke and Kenneth R. Fasen) listed on the oath. There has not been a petition to add an inventor

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE

2875
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : August 26, 2009

Patent No. : 7,163,317 B2
Patent Issued : Jan. 16, 2007
Docket No. : 1629.122
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 .

The alleged error(s) There are only two Inventors (Russell A. Warnecke and Kenneth R. Fasen) listed on the oath.There has not been a Petition to add an inventor.. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Fred H. Miller	:	
Application No. 10/804,576	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 027668-0108	:	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 30, 2008.

The request is **APPROVED**.

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

The request was signed by Stephen Bent on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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 correspondence will be directed to the first named inventor Fred Miller at the address indicated below.

There is an outstanding Office action mailed August 13, 2008 that requires a reply from the applicant.

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

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

cc: FRED H. MILLER
2609 WEST TYSON AVENUE
TAMPA, FL 33611

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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
10/804,576	03/19/2004	Fred H. Miller	027668-0108

CONFIRMATION NO. 7069

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000034581541

Date Mailed: 02/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/30/2008.

- 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.

/amwise/

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

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SHOOK, HARDY & BACON, L.L.P.
(C/O INTERMEC)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD.
KANSAS CITY MO 64108

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of:	:	
Alan G. Bunte	:	DECISION ON PETITION UNDER
Application No.: 10/804,587	:	37 CFR 1.137(b)
Filed: March 19, 2004	:	
Atty's Docket No.: 37955AAA	:	

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed August 24, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 7, 2006.

On August 24, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue fee. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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Paper No.

FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

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SEP 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Marvin L. Boerboom	:	
Application No. 10/804,589	:	
Filed: March 19, 2004	:	ON PETITION
Attorney Docket Number:	:	
DEKA:327US	:	

This is a decision on the Petition Under 37 CFR § 1.53(e)(2) to Accord a Filing Date and Response to Notice of Incomplete Nonprovisional Application Filed Under 37 CFR 1.53(b), filed August 12, 2004, requesting the above-identified application be accorded a filing date of March 19, 2004.

The petition is granted.

The application was filed on March 19, 2004. On June 9, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that drawings are not required [under 35 U.S.C. §113] because they are not necessary for the understanding or for practice of the invention as claimed.

A review of the file reveals that Petitioner is correct, the specification contains process claims (i.e. claims 15-17). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

This application contains process (and method) claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In this instance, a petition is not necessary to add the drawing figures. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

In view of the above, the Notice mailed June 9, 2004, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, including processing of the Response to Notice of Incomplete Nonprovisional Application Filed Under 37 CFR 1.53(b), with the filing date of March 19, 2004, and an indication that no drawings were required or present on filing.

A refund of the petition fee has been credited to deposit account 50-1212 as authorized in the instant petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH ST
SUITE 3300
MINNEAPOLIS MN 55402

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Leonard Miller	:	
Application No. 10/804,604	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 22082-3001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed June 2, 2004, which set an extendable period for reply of two months for applicant to file replacement drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on August 3, 2004. A Notice of Abandonment was mailed on February 18, 2005. Applicant

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

The Revocation and Power of Attorney submitted with the petition has been entered. Future correspondence concerning this application will be mailed to the above address of record.

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

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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Oppenheimer Wolff & Donnelly LLP
45 South Seventh Street, Suite 3300
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Paul L. Miller	:	
Application No. 10/804,604	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO WITHDRAW
Attorney Docket No. 22082-3001	:	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, 2005.

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

A review of the file record indicates that the power of attorney to Barbara Wrigley and attorneys associated with customer number 34205 have been revoked by the assignee of the patent application on October 11, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Fish & Neave IP Group
Ropes & Gray LLP
1251 Avenue Of The Americas FL C3
New York, NY 10020-1105

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DTS, Inc.
5171 Clareton Drive
Agoura Hills, CA 91301

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Kimball Darr Thurston III	:	
Application No. 11/804,605	:	DECISION ON PETITION
Filed: May 18, 2007	:	TO WITHDRAW
Attorney Docket No. 263-13-483	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 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 William L. Johnson on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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: **Kimball D. Thurston**
3551 Division Street
Los Angeles, CA 90065

cc: **DTS Digital Images**
2777 N. Ontario Street
Burbank, CA 91504

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/804,605	05/18/2007	Kimball Darr Thurston III	263-13-483

CONFIRMATION NO. 9605

POWER OF ATTORNEY NOTICE

43634
DTS, INC.
5171 CLARETON DRIVE
AGOURA HILLS, CA 91301

OC000000035154256

Date Mailed: 03/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2008.

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

/tswilliams/

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

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TECHNOLOGY CENTER 2100

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

In re Application of: TAGUCHI
Application No. 10/804,618
Filed: March 18, 2004
For: MANAGEMENT METHOD FOR DATA RETENTION

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

This is a response to the petition filed 19 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

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

The petition filed 19 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The statement repeated for each reference purporting to distinguish the independent claims from the reference includes limitations in parentheses. It is not clear if the limitations in parentheses are intended to distinguish the claims or not. Clarification is required. Also, some of the limitations purporting to distinguish independent claims 10, 13, and 16 from each reference do not appear to be in these claims. For example, claims 10, 13, and 16 do not require "attaching a management rule to a data file received from a client" (emphasis added). Claims 13 and 16 do not require "storing the data file in a storage subsystem."

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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

ds

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TECHNOLOGY CENTER 2100

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

In re Application of: TAGUCHI
Application No. 10/804,618
Filed: March 18, 2004
For: MANAGEMENT METHOD FOR DATA RETENTION

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

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

The renewed petition was filed in response to a dismissal of the original petition filed 19 August 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 28 November 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

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

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

ds

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Technology Center 2100

Microsoft Corporation
Attn: Patent Group Docketing Department
One Microsoft Way
Redmond, WA 98052-6399

In re Application of:
Paul D. BARTHOLMEW
Appl. No.: 10/804,619
Filed: March 19, 2004
For: ASYNCHRONOUS CHANNEL FOR DISPLAYING USER INTERFACE ELEMENTS

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed 07 September 2005, to expunge information unintentionally submitted in an Information Disclosure Statement on 24 June 2005.

The petition is **GRANTED**.

Petitioner requests that the unintentionally submitted information entitled "Spooler Service Scalability Improvement" filed on 24 June 2005 be expunged from the record and returned to applicant. Petitioner states that the failure to obtain the return of the unintentionally submitted information would cause irreparable harm to applicant. The petition fee set forth in 37 CFR § 1.17(i) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Willy H. Piret, et al. :
Application No. 10/804,623 :
Filed: March 19, 2004 :
Attorney Docket No. 25406A :

This is a decision in response to the petition, filed November 10, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed December 16, 2004. A Notice of Abandonment was mailed on October 3, 2005. In response, on November 10, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 1713 for consideration of the amendment filed November 10, 2005.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Don D. Josephson, et al.
Application No. 10/804,624
Filed: March 19, 2004
Attorney Docket No. 200312720-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 10, 2007.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before August 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 1, 2007. Accordingly, the date of abandonment of this application is August 2, 2007. On August 10, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 20, 2007.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of William P. O'Meara appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. O'Meara desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM O'MEARA
KLAAS LAW O'MEARA AND MALKIN PC
1999 BROADWAY STE 2225
DENVER, CO 80202

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FRANCIS LAW GROUP
1942 EMBARCADERO
OAKLAND CA 94606

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OFFICE OF PETITIONS

In re Application of
Kevin James Soper et al.
Application No. 10/804,642
Filed: March 19, 2004
Attorney Docket No. LP-02-020

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed April 19, 2006, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/AU02/01306, filed September 20, 2002, as set forth in the accompanying amendment.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2)

must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 2851 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 application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/804,642	03/19/2004	2851	450	LP-02-020	6	11	2

CONFIRMATION NO. 7737
CORRECTED FILING RECEIPT
OC000000020345050
OC000000020345050

Francis Law Group
1942 Embarcadero
Oakland, CA 94606

Date Mailed: 09/07/2006

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)

Kevin James Soper, Hope Valley, AUSTRALIA;
Philip Brendan Banks, Modbury Heights, AUSTRALIA;
Peter Hugh Nankivell, Flagstaff Hill, AUSTRALIA;
Luceille Outhred, Prospect, AUSTRALIA;

Power of Attorney:

Ralph Francis--38884

Domestic Priority data as claimed by applicant

This application is a CON of PCT/AU02/01306 09/20/2002

Foreign Applications

AUSTRALIA PR7771 09/20/2001
If Required, Foreign Filing License Granted: 06/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/804,642

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Decouplable image projection device for use with docking stations

Preliminary Class

353

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).

Doc Code:

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/804,650
Filing Date	03/19/2004
First Named Inventor	Schwarzwalder
Art Unit	1732
Examiner Name	Huson
Attorney Docket Number	63799-0057

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

Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 26127

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practioners associated with a customer number.

The reasons for this request are:
Upon information and belief Applicants assigned the pending application to Assignee. Attorneys received notice that Assignee, Ligon Brothers Manufacturing, has undergone out of court liquidation and therefore is no longer in existence. Due to Assignee's liquidation, Assignee's attorneys respectfully petition the U.S. Patent & Trademark Office to withdraw as attorney's of record. Although a Non-Final Office Action issued on November 3, 2005, Assignee or any potential new assignee has until May 3, 2006 (6-month due date) to submit a response.

CORRESPONDENCE ADDRESS

1. ☒ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☐ Firm or					
Address					
City		State		Zip	
Country					
Telephone		Email			
Signature	Myriah Gambrell-Glenn				
Name	Myriah Gambrell-Glenn	Registration No.	46,720		
Date	February 24, 2006	Telephone No.	(248)203-0766		

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 are required 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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LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Chin Wan Lu	:	
Application No. 10/804,665	:	DECISION GRANTING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EL-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 3, 2005. A Notice of Abandonment was mailed on April 7, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination, $395 fee, and submission as required by 37 CFR 1.114), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of September 2, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3765 for processing the RCE and for appropriate action in the normal course of business on the amendment received June 19, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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RICHARD A. RYAN
ATTORNEY AT LAW
8497 N. MILLBROOK AVENUE
SUITE 101
FRESNO, CA 93720

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of Baird	:	
Application No. 10/804,701	:	Decision on Petition
Filing Date: March 18, 2004	:	
Attorney Docket No. RAR 472.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 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 February 2, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on May 3, 2005. A Notice of Abandonment was mailed on October 28, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the non-final Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Since petitioner has met the requirements of 37 CFR 1.137(b), the petition is granted and the application is revived.

Technology Center Art Unit 1761 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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695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of
Tupper, et al.
Application No.: 10/804,717
Filed: March 29, 2004
Attorney Docket No. STE01 P1167
For: PEDESTAL SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 29, 2004 (certificate of mailing date September 27, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 29, 2004 without an executed oath or declaration. Accordingly, on June 2, 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 September 29, 2004 (certificate of mailing date September 27, 2004), a petition for a two month extension of time and required fee, a declaration executed by 9 of 10 joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition and accompanying exhibits establish that the application papers were mailed to non-signing inventor John L. McCrackin was mailed the application papers, but did not respond to numerous requests that he execute and return the enclosed declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor DuVall's residence. 37 CFR 1.52(c) states that "[a]ny interlineation,

erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor DuVall can correct his information on a supplemental declaration identifying the entire inventive entity and listing all information for them, but signed only by him.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of
Tupper, et al.
Application No.: 10/804,717
Filed: March 29, 2004
Attorney Docket No. STE01 P1167
For: PEDESTAL SYSTEM

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 31, 2005 (certificate of mailing date January 24, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventor, John L. McCrackin, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the September 27, 2004 petition and accompanying exhibits establish that the application papers were mailed to Mr. McCrackin, but he did not respond to numerous requests that he execute and return the enclosed declaration. Petitioners have not stated that the mailings were returned. Therefore, it is presumed that they were delivered to the non-signing inventor's last known address. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Technology Center G.A.U. 3637 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN L. MCCRACKIN
1118 SPENCER, NE
GRAND RAPIDS, MI 40505

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of Tupper, et al. Application No.: 10/804,717 Filed: March 29, 2004 Attorney Docket No. STE01 P1167 For: PEDESTAL SYSTEM	: : : : :	LETTER

Dear Mr. McCrackin:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,469,979
DATED : December 30, 2009
INVENTOR(S) : Tupper et al.

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

Column 6;
Line 64, "is" should be --are--.

Column 8;
Line 14, "slidable" should be --slidably--.

Column 9;
Line 62, "first mounting bracket 22" should be --first mounting bracket 92--.

Column 15;
Line 22, "Figs." should be --Fig.--.
Line 67, "an" should be --and--.

Column 16;
Line 6, "are" should be --is--.
Line 37, "perspective" should be --respective--.

Column 18;
Line 29, "place" should be --plate--.
Lines 53-54, "of the at least drawer" should be --of the at least one drawer--.

MAILING ADDRESS OF SENDER:

Brian E. Ainsworth
Price, Heneveld, Cooper,
DeWitt & Litton, LLP
Post Office Box 2567
Grand Rapids, MI 49501

PATENT NO. 7,469,979
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FORM **PTO 1050**

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,469,979
DATED : December 30, 2009
INVENTOR(S) : Tupper et al.

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

Column 19:
Line 8, "is" should be --are--.
Line 9, "perspective" should be --respective--.
Lines 42-43, "of the at least drawer" should be --of the at least one drawer--.
Line 61, "off" should be --of--.
Line 63, "perspective" should be --respective--.

Column 20:
Line 26, "forward" should be --forwardly--.

MAILING ADDRESS OF SENDER:

Brian E. Ainsworth
Price, Heneveld, Cooper,
DeWitt & Litton, LLP
Post Office Box 2567
Grand Rapids, MI 49501

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FORM **PTO 1050**

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CANTOR COLBURN, LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

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OFFICE OF PETITIONS

In re Application of
Beohm-Rock CHOI, et *al.*
Application No. 10/804,722
Filed: March 19, 2004
Attorney Docket No. **21C-0081**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 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 November 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries should be directed to the undersigned 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.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **CANTOR COLBURN LLP**
1800 DIAGONAL ROAD, SUITE 510
ALEXANDRIA, VA 22314

---

[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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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

Mail Date: 04/21/2010

Applicant	: Sadayori Hoshina	: DECISION ON REQUEST FOR
Patent Number	: 7598074	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/18/2010

Applicant : Sadayori Hoshina
Patent Number : 7598074
Issue Date : 10/06/2009
Application No : 10/804,746
Filed : 03/19/2004

: 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 **1413** 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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Alexandria, VA 22313-1450
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MARK KUSNER
KUSNER & JAFFE
HIGHLAND PLACE – SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Kazuaki Morita :
Application No. 10/804,749 : NOTICE
Filed: March 19, 2004 :
Attorney Docket No. MM8857US

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being forwarded to Technology Center AU 3765.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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JUL 2 4 2008

In re Application of	:	
Jeanne Krayer et al	:	
Application No. 10/804,750	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. IT-36763	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 July 23, 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 October 24, 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 2193 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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

NOV 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,253,336	:	
Issue Date: August 7, 2007	:	
Application No. 10/804,772	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 11696-070002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever 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. 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.

Petitioner's deposit account has been charged $772.00 as authorized on May 22, 2009.

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: Lisbeth C. Robinson
Fish & Richardson P.C.
3200 RBC Plaza
60 South Sixth Street
Minneapolis, Minnesota 55402

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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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

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SEP 26 2008

In re Application of	:	
MAIDA-SMITH et al.	:	
Application No. 10/804,775	:	DECISION ON PETITION
Filed: 03/19/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2416-00300	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 5, 2008, 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 May 25, 2005.

The petition is **DISMISSED.**

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

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

The petition does not comply with items (1) and (3).

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

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

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3), an Application Data Sheet or substitute amendment (complying with 37 CFR 1.121, 37 CFR 1.76(b)(5) and 37 CFR 1.33(b)),[1] which states the relationship of the prior-filed applications to this application, are required.

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

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

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions 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
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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of
MAIDA-SMITH et al.
Application No. 10/804,775
Filed: 03/19/2004
Attorney Docket No. 2416-00300

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 15, 2008, 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 October 15, 2008.

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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. 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 2165 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/804,775	03/19/2004	2165	439	2416-00300	26	3

CONFIRMATION NO. 7785

CORRECTED FILING RECEIPT

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

OC000000032843696

Date Mailed: 10/29/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Kathy Maida-Smith, Houston, TX;
Steven W. Engle, Garland, TX;

Power of Attorney: The patent practitioners associated with Customer Number 23505

Domestic Priority data as claimed by applicant

This application is a CIP of 09/990,194 11/21/2001 ABN
which is a CON of 09/444,937 11/22/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 06/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/804,775**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Network security data management system and method

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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GAZDZINSKI & ASSOCIATES
Suite 375
11440 West Bernardo Court
San Diego CA 92127

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FEB 07 2005

OFFICE OF PETITIONS

Applicant: Richter, et al.
Appl. No.: 10/804,776
Filing Date: March 19, 2004
Title: METHOD AND APPARATUS FOR MULTIPLE MEDIA DIGITAL COMMUNICATION SYSTEM
Attorney Docket No.: BTG.001C5
Pub. No.: US 2004/0218628 A1
Pub. Date: November 4, 2004

This is in response to the Request for Corrected Publication under 37 CFR 1.221(b), which was received on November 8, 2004.

The request is DISMISSED.

The instant request is that the patent application publication, which published on November 4, 2004, be republished because the publication includes a material error in that it did not include the preliminary amendment to the claims, which was filed with the application on March 19, 2004.

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

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments,

[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).

according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment to the claims, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

The Office has encouraged applicants to file Continuation or Divisional applications with the preliminary amendments already contained within the specification papers to be included in the pre-grant publication. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 OG 54 (October 9, 2001).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on November 8, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the

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[2]Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Suite 375
11440 West Bernardo Court
San Diego CA 92127

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NOV 29 2005

OFFICE OF PETITIONS

Applicant: Richter, et al.
Appl. No.: 10/804,776
Filing Date: March 19, 2004
Title: METHOD AND APPARATUS FOR MULTIPLE MEDIA DIGITAL COMMUNICATION SYSTEM
Attorney Docket No.: BTG.001C5
Pub. No.: US 2004/0218628 A1
Pub. Date: November 4, 2004

This is in response to "Applicant's Request for Reconsideration of its Request for Corrected Publication under 37 CFR 1.221(b)," which was received on April 14, 2005. Applicant requests that the above-identified application be republished with amended claims 71-166.

The request is DISMISSED.

The instant request is that the patent application publication, which published on November 4, 2004, be republished because inter alia the publication included a material error in that only a portion of claim 1 was published. Applicant states that the publication did not include claims 1-70, as originally filed or the claims as amended by the preliminary amendment filed with the application on March 19, 2004.

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

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

The patent application publication does not include a mistake in the publication by the Office, because the patent application publication included the claim as presented by Applicant on June 28, 2004, in response to the Notice to File Corrected Application Papers.

On March 19, 2004, the above-identified application was filed with claims 1-70 including a preliminary amendment canceling claims 1-70 and adding claims 71-166. The claims (original claims 1-70) did not commence on a separate sheet of paper as required by 37 CFR 1.52(b)(3) and 1.75(h). On June 2, 2004, the Office mailed a Notice to File Corrected Application Papers, requiring applicant to submit replacement claims commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121.

37 CFR 1.215(a) provides in part:

> The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application, and any application papers or drawings submitted in reply to a preexamination notice requiring a title and abstract in compliance with §§ 1.72, application papers in compliance with §§1.52, drawings in compliance with §§ 1.84, or a sequence listing in compliance with §§§§ 1.821 through 1.825, except as otherwise provided in this section.

37 CFR 1.52(b)(3) provides in part:

> The claim or claims must commence on a separate physical sheet or electronic page (§ 1.75(h)).

On June 28, 2004, in response to the preexamination notice, Applicant submitted a revised page 34 and 35, which deleted claim 1 from page 34 of the specification and only listed part of claim 1 on a separate sheet. The paper did not include a complete set of claims 1-70 commencing on a separate sheet and included only a portion of claim 1. The publication of that portion of claim 1 was thereafter consistent with submission in response to the notice and PTO rules. Thus, the request is appropriately dismissed.

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

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

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

By facsimile: 571-273-8300

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

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/10/08

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10804800 Patent No.: 7209366

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

/Dean A. Reichard/ 2841

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of
Zheng et al.
Application No. 10/804,828
Filed: March 19, 2004
For: METHODS AND ARTICLES FOR DETECTING, VERIFYING, AND REPAIRING COLLINEARITY IN A MODEL OR SUBSETS OF A MODEL
Attorney Docket No: 1086.2017-001
Pub. No.: US 2004/0249481 A1
Pub. Date: December 9, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), filed on February 7, 2005, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material errors made by the Office.

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

The instant request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The errors mentioned in paragraphs [0084], [0087] and [0088] will not be corrected as requested by applicant as the text of the subscripts is very small and in such a poor quality that the errors are due to the quality of the text. Some of the other errors in this published application may be due in part to the poor quality of the text in the application. While most of the text is legible, some of the text (subscripts) is not clear. Some of the text in the application is very small, which makes it blurry and not clear, which also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

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

Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JAN 24 2007

OFFICE OF PETITIONS

Applicant: Zheng et al.
Appl. No.: 10/804,828
Filing Date: March 19, 2004
Title: METHODS AND ARTICLES FOR DETECTING, VERIFYING, AND REPAIRING COLLINEARITY IN A MODEL OR SUBSETS OF A MODEL
Attorney Docket No.: 1086.2017-001
Pub. No.: US 2006/0015194 A9
Pub. Date: January 19, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 20, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Perkinson, Terry D.	:	
Application No. 10/804,832	:	ON PETITION
Filed: March 17, 2004	:	
Attorney Docket No. 10041.000100	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the requisite fees as stated in the Notice mailed February 22, 2005, including the statutory basic filing fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 08, 2007

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction on Patent No.: **7073453 B2 – 10/804833**

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

_____

_____

_____

_____

_____

SPE — 3765 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: Shane Mayor	: DECISION ON REQUEST FOR
Patent Number	: 7583364	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,863	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **266** 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.

O I P E JC43
AUG 1 2 2005
PATENT & TRADEMARK OFFICE

MAIL STOP PETITION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: T.W. Urbanek

Attorney Docket No.: GOWL122548 (New)
LAMA122548 (Old)

Application No.: 10/804,868

Group Art Unit: 3675

Filed: March 19, 2004

Title: PROPPANTS AND THEIR MANUFACTURE

PETITION TO MAKE SPECIAL
UNDER 37 C.F.R. § 1.102(c)(2)(ii) and M.P.E.P. § 708.02(VI)

Seattle, Washington 98101

August 19, 2005

TO THE COMMISSIONER FOR PATENTS:

Applicant hereby petitions to make this application special as being for an invention that materially contributes to

☒ a. the discovery or development of energy resources.

☐ b. the more efficient utilization and conservation of energy.

1. Accompanying material.

Accompanying this petition is a statement in support of this petition by:

☒ a. Applicant

☐ b. Applicant's attorney

explaining how the invention materially contributes to category (a) set forth above.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
SEP - 1 2005

LAW OFFICES OF
NSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/8/07

Paper No.: 8/27/07

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 7160844

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:

Priority is Present, has been as of 12/11/06

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700
SPE

1712
Art Unit

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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HAYES, SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON AZ 85701

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JAN 05 2005

OFFICE OF PETITIONS

In re Application of	:
Albert S. Deustch	:
Application No. 10/804,871	: DECISION REFUSING STATUS
Filed: March 19, 2004	: UNDER 37 CFR 1.47(b)
Attorney Docket No. PISCES O2.03	:

This is in response to the petition filed November 1, 2004 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 19, 2004 without an executed oath or declaration. Accordingly, on June 3, 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 three (3) 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 (6)

As to item (2), 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 (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYES, SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON AZ 85701

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of
Albert S. Deutsch
Application No. 10/804,871
Filed: March 19, 2004
Attorney Docket No. PISCES O2.03

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the renewed petition filed under 37 CFR 1.47(b) on February 9, 2005.

The petition is **GRANTED**.

The above-identified application was filed on March 19, 2004 without an executed oath or declaration. Accordingly, on June 3, 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, a petition was filed November 1, 2004, accompanied by the late filing surcharge and a three (3) month extension of time. On January 5, 2005, the petition was dismissed because an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 had not been presented and because the petition lacked proof of irreparable damage.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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.

In response to the decision dismissing the petition filed November 1, 2004, an oath or declaration executed by an officer of the Corporation, for the assignee and on behalf of the non-signing inventor as well as proof of irreparable damage has been presented. All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing

inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 1752 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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caj

Mailed : 8/31/06

In re Application of	:	DECISION ON
Deutsch	:	PETITION
Serial No. 10/804,871	:	
Filed: March 19, 2004		
For: INK JET IMAGING OF A LITHOGRAPHIC PRINTING PLATE		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed June 6, 2006.

The instant petition was filed on July 31, 2006. In the petition, it is urged that the final office action mailed June 6, 2006 was improperly made final because the examiner did not consider applicant's request for a three month suspension.

DECISION

It is noted that the examiner approved the suspension request in a letter mailed August 7, 2006 and vacated the previous office action, thereby making the instant petition moot. Accordingly the petition is **DISMISSED.**

Jacqueline M. Stone

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

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON AZ 85718

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/18/2010

Applicant	: David E. Wang	: DECISION ON REQUEST FOR
Patent Number	: 7620368	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/804,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **909** 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

DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #E
NEWPORT BEACH, CA 92661

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of	:	
GREENE	:	
Application No.: 10/804,875	:	DECISION ON PETITION
Filing Date: March 19, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: GREENE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 26, 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 November 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed August 26, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3544 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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MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

In re Application of
Sung Soon Kang
Application No. 10/804,893
Filed: March 19, 2004
For: ELASTIC DRAINAGE PAVEMENT COMPRISING WASTE POLYURETHANE CHIPS FOR USE ON EXISTING ROADS AND A PAVING METHOD USING THE SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 10, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (Restriction requirement) mailed to applicant on November 01, 2004, setting a one-month extendable response period. A Notice of Abandonment was mailed on May 24, 2005 stating that no reply had been received. Applicant contends that the November 01, 2004 Office action was not received.

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

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

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

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

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around December 01, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Applicant's petition indicates that after careful review of the file and docket records the November 01, 2004 Office action was never received. In support thereof applicant has provided a copy of "the docket record". The evidence provided is not considered a docket record but rather a log of incoming U.S.P.T.O. mail.

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed November 01, 2004 was not received or placed in the file for application 10/804,893. A complete docket record with a copy of the list of all responses in the practitioner's office with the **due date at and around December 01, 2004 is required** as a shortened statutory response period of one-month (not three-months) was set in the Office action mailed November 01, 2004.

Petitioner's evidence of non-receipt of the Office action mailed November 01, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

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

SNM/rjc 08/31/05

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GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

In re Application of Sung Soon Kang Application No. 10/804,893 Filed: March 19, 2004 For: ELASTIC DRAINAGE PAVEMENT COMPRISING WASTE POLYURETHANE CHIPS FOR USE ON EXISTING ROADS AND A PAVING METHOD USING THE SAME	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on September 19, 2005.

The petition is **GRANTED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (Restriction requirement) mailed to applicant on November 01, 2004, setting a one-month extendable response period. A Notice of Abandonment was mailed on May 24, 2005 stating that no reply had been received. Applicant contends that the November 01, 2004 Office action was not received.

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

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

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

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

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around December 01, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Applicant's petition indicates that after careful review of the file and docket records the November 01, 2004 Office action was never received. In support thereof applicant has provided a copy of the docket record of all responses in the practitioner's office with the due date at and around December 01, 2004.

This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action mailed November 01, 2004 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

KJD/rjc 10/15/05

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12400 WILSHIRE BLVD
7TH FLOOR
LOS ANGELES CA 90025-1026

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OFFICE OF PETITIONS

In re Application of
Thomas Joseph Abell :
Application No. 10/804,904 : DECISION ON
Filed: March 18, 2004 : PETITION
Attorney Docket No. 42.P15051D2 :

This is in response to the petition under 37 CFR 1.137(b), filed February 27, 2006.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on August 19, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on November 20, 2005. A Notice of Abandonment was mailed on January 12, 2006.

With the instant petition, petitioner paid the petition fee together with the issue and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Steve Barhorst et al.	:	
Application No. 10/804,913	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 22176.23	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 7, 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 41.37(b). As no claim was allowed, the application became abandoned on July 8, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on July 11, 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 Appeal Brief, with the fee of $510, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Technology Center AU 1793 for appropriate action in the normal course of business for processing of the Appeal Brief received February 26, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Raymond R. NEISER et al.	:	
Application No. 10/804,922	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 0100352.0517300	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final action mailed August 8, 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 above-identified application became abandoned on November 9, 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 and associated fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action mailed August 8, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3651 for appropriate action on the concurrently filed Request for Continued Examination.

David Bucci
Petitions Examiner
Office of Petitions

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3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: Steven T. Baker	: DECISION ON REQUEST FOR
Patent Number	: 7657926	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1002** 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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PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of	:	
Scott Jirele	:	
Application No. 10/804,931	:	LETTER REGARDING
Filed: March 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1088.157US02	:	

This is in response to the TERMINAL DISCLAIMER OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) filed January 22, 2007. Attorney of record James Patterson requests that the Office disclaim the terminal part of any patent term added as a result of the Adjustment of Patent Term provisions of 35 U.S.C. § 154(b) to any patent granted on the instant application.

This letter is written in light of the LETTER REGARDING PATENT TERM ADJUSTMENT filed May 11, 2007, and considered prior to entry of the terminal disclaimer. Therein, applicants state that the TERMINAL DISCLAIMER OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) was filed in error. Applicants intended to disclose that the patent term adjustment added was greater than they were entitled.

In view thereof, the request to disclaim the terminal part of any patent term added as a result of the patent term adjustment is **WITHDRAWN**. No such terminal disclaimer will be entered.

The request for review of the patent term adjustment filed May 11, 2007 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 forty **(40)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 18, 2006, the Office mailed the new Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 42 days. Applicants disclose that an additional period of reduction of 2 days should have been entered.

Applicants are correct. A review of the record confirms that applicants took until June 19, 2006 to file a response to the final Office action mailed March 17, 2006. Accordingly, entry of a 2 day period of reduction pursuant to 37 CFR 1.704(b) is warranted.

In view thereof, it is concluded that the determination of PTA at the time of the mailing of the notice of allowance is FORTY (40) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Thursday
Date: 5/17/2007

PALM INTRANET

Time: 10:08:20

PTA Calculations for Application: 10/804931			
Application Filing Date:	03/19/2004	PTO Delay (PTO):	76
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	34
Post-Issue Petitions:	0	Total PTA (days):	40
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	05/17/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
42	05/17/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	42		
40	05/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		42	
33	10/18/2006	MAIL NOTICE OF ALLOWANCE			
32	09/19/2006	ISSUE REVISION COMPLETED			
31	09/19/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	09/19/2006	NOTICE OF ALLOWABILITY			
29	03/17/2006	MAIL FINAL REJECTION (PTOL - 326)	76		26
28	03/14/2006	FINAL REJECTION			
27	09/14/2005	DATE FORWARDED TO EXAMINER			
26	08/31/2005	RESPONSE AFTER NON-FINAL ACTION		34	24
25	08/31/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	04/28/2005	MAIL NON-FINAL REJECTION			
23	04/26/2005	NON-FINAL REJECTION			
22	11/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	09/29/2004	REFERENCE CAPTURE ON IDS			
20	09/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	08/05/2004	APPLICATION RETURN FROM OIPE			
16	08/05/2004	APPLICATION RETURN TO OIPE			
15	08/05/2004	APPLICATION RETURN FROM OIPE			
14	08/05/2004	APPLICATION IS NOW COMPLETE			

13	07/02/2004	ADDITIONAL APPLICATION FILING FEES			
12	07/02/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
11	06/03/2004	CORRECTED PAPER			
10	06/03/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	06/02/2004	APPLICATION RETURN TO OIPE			
8	06/02/2004	APPLICATION RETURN FROM OIPE			
7	06/02/2004	APPLICATION RETURN TO OIPE			
6	06/02/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/03/2004	APPLICATION IS NOW COMPLETE			
4	04/15/2004	CLEARED BY OIPE CSR			
3	04/15/2004	CASE CLASSIFIED BY OIPE			
2	04/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/19/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTE CALCULATION

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Day : Thursday
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Time: 10:08:20

PTA Calculations for Application: 10/804931			
Application Filing Date:	03/19/2004	PTO Delay (PTO):	76
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	34
Post-Issue Petitions:	0	Total PTA (days):	40
PTO Delay Adjustment:	-2		

File Contents History

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20	09/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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14	08/05/2004	APPLICATION IS NOW COMPLETE			

13	07/02/2004	ADDITIONAL APPLICATION FILING FEES			
12	07/02/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
11	06/03/2004	CORRECTED PAPER			
10	06/03/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
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7	06/02/2004	APPLICATION RETURN TO OIPE			
6	06/02/2004	APPLICATION DISPATCHED FROM OIPE			
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3	04/15/2004	CASE CLASSIFIED BY OIPE			
2	04/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/19/2004	INITIAL EXAM TEAM NN			

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

In re Application of: Nagasuka, et al.
Application No. 10/804,942
Filed: March 18, 2004
For: STORAGE MANAGEMENT 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 22 February 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

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

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

The petition filed 22 February 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Rather, the identical statement, which in essence indicates that most of the limitations of independent claims 1, 2, 5, 8, 9, 10, or 11, are not disclosed by the reference, is presented for each of the four references deemed "most closely related". The detailed discussion should be directed to how the language of each of the independent claims is **specifically** distinguishable and patentable from each of the references provided in requirement (d) above. Additionally, at least some of the limitations purporting to distinguish some of the independent claims from the references are not in these claims. For example, claim 5 does not require a disk management table.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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

ds

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In re Application of: Nagasuka, et al.
Application No. 10/804,942
Filed: March 18, 2004
For: STORAGE MANAGEMENT METHOD

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

This is a response to the renewed petition filed 06 July 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 22 February 2005.

The Petition is **DENIED**.

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

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

. . .

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

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

The renewed petition filed 06 July 2005 also fails to adequately meet requirement (e). The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. At least some of the limitations purporting to distinguish some of the independent claims from the references are not in these claims. Claim 8 fails to require "obtaining *from the disk management table* a physical address of a volume belonging to a same group as a group *identifier input* from the management computer" (emphasis added). Claim 2 fails to require "obtaining from the disk management table a physical

address of a volume belonging to a same group as a group *identifier* input from the management computer" (emphasis added).

Petition to Make Special **DENIED**.

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

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

ds

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Paper No.

OLSON AND OLSON
5412 SE FOSTER ROAD
PORTLAND, OR 97206

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gerald Morrow	:	DECISION ON PETITION
Application No. 10/804,948	:	
Filed: March 19, 2004	:	
Attorney Docket No. 2101	:	

This is a decision on the "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT" filed December 9, 2005.

The above-identified application became abandoned for failure to reply to the restriction requirement mailed April 5, 2005. This Office action set a one-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on May 6, 2005. A Notice of Abandonment was mailed on November 30, 2005.

In response, applicant timely filed the instant petition. Petitioner states that a response to the restriction requirement with a certificate of mailing dated May 5, 2005, was received in the Office on May 9, 2005. In support thereof, petitioner submitted a copy of their response and the front and back of their return postcard.

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding

is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated May 5, 2005. In addition, petitioner's postcard evidence serves as *prima facie* evidence that the response was, in fact, received May 9, 2005.

Accordingly, the Notice of Abandonment mailed November 30, 2005 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3643 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to restriction requirement resubmitted on petition filed December 9, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 0 4 2009

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	:
Konradi et al.	:
Serial No.: 10/804,950	: PETITION DECISION
Filed: March 19, 2004	:
Attorney Docket No.: **04843/120003**	:

This is in response to the petition under 37 CFR § 1.181, filed July 31, 2009, requesting that the finality of the Office action of July 9, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on January 8, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1, 2 and 39-41 were pending. The examiner rejected claims 1-2 and 39-41 under 35 USC 102 (e) as being anticipated by Wallace et al. Claims 1 and 39-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al. in view of Lockhart et al. Claims 1 and 39-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Seitink et al. in view of Lockhart et al. Claim 2 was also objected to for reciting nonelected subject matter.

In reply to the non-final Office action of January 8, 2009, applicants filed a response on April 7, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action, and amendments to the claims.

On July 9, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 2 and 39-41 were pending. Claims 1 and 39-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Van den Heuvel et al. in view of Lockhart et al. Claims 1-2 and 39-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al. in view of Van den Heuvel et al. and Papaconstantinou et al. Claim 2 was again objected to for reciting nonelected subject matter. The examiner made the action Final and stated that Applicants' amendment necessitated the new ground(s) of rejection citing MPEP §706.07(a).

In response thereto, applicants filed this petition on July 31, 2009, requesting that the finality of the Office action of July 9, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on July 31, 2009, applicants request reconsideration of the final Office action mailed by the examiner on July 9, 2009 asserting that the final rejection was premature and improper. Specifically, applicants argue "the critical issue in determining if a claim amendment "necessitates a new ground of rejection" is whether the rejection could have been made prior to that amendment being entered. Because the rejections set forth in the July 9, 2009 Office action can be applied to claim 1 prior to the April 7, 2009 amendment, this amendment did not necessitate the new grounds for rejection in the final action. Accordingly, it is improper to make this action final." Applicants further point out that "claim 1 was amended on April 7, 2009 to remove language directed to a "solid support." The term "microarray," as recited in claim 1, is defined by the specification as including a solid support. As set forth below, none of the rejections in the final action hinges on the explicit recitation of the term "solid support." Accordingly, each of these rejections could have been presented before the April 7, 2009 claim amendment."

The following excerpt from the MPEP § 706.07 was also cited in support of applicants' assertions:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The examiner's rejections of the claims under 35 U.S.C. § 103 (a) in the final Office action were new rejections considering that the examiner did not originally institute said rejection(s) in the non-final Office action. While new rejections are permitted in final Office actions, such new rejections are only proper under certain circumstances according to the provisions set forth in the MPEP; those provisions being, either when applicants' amendment to the claims necessitates such a rejection or when an IDS submitted by applicants necessitates such a rejection, see MPEP citation (*Id.*) Since no IDS was submitted by applicants in the interim between the mailing of the non-final Office action and the final Office action and the claim amendments of April 7, 2009 did not alter the scope of the claims, applicants' arguments are well-taken and found persuasive. In view of the evidence, the final Office action issued July 9, 2009 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Mike Wityshyn
Acting Director, Technology Center 1600

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glm

Mailed : 6-13-07	:	
In re Application of	:	DECISION
P.C. Blank et al.	:	GRANTING
Serial No. 10/804,953	:	PETITION
Filed: March 19, 2004	:	
For: COLUMNAR ADHESIVE LABEL ROLL	:	

This is a decision on the March 19, 2007 "PETITION UNDER 37 CFR 41.3."

Applicant filed an appeal brief on January 22, 2007, which was held non-compliant under 37 CFR 41.37 by the examiner in a "Notification of Non-Compliant Appeal Brief" mailed February 23, 2007.

The instant petition was then timely filed on March 19, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests that the various objections raised by the Notification of February 23, 2007 be withdrawn.

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

DECISION

The examiner held the brief non-compliant because it included the heading "Background," because the brief summary included additional paragraphs not directed towards the claimed subject matter, because the arguments section did not include subheadings for dependent claims, and because the arguments section included an additional subheading not directed to a claim or ground of rejection.

None of the above are proper grounds for objecting to an appeal brief under 37 CFR 41.37. The ten items required by 37 CFR 41.37 are necessary, but nothing in 37 CFR 41.37 prohibits additional items from being included. Likewise the brief summary section must contain a summary of the claimed subject matter of each independent claim on appeal, with reference to the corresponding portions of the specification, but may contain additional material as well. The use of subheadings is optional, and nothing in the rules prohibits additional subheadings. Thus none of the examiner's objections are well-founded and they are hereby withdrawn.

With respect to applicant's other concerns, a careful review of USPTO records has been conducted. There is no evidence that an appeal conference with the noted appeal conferee was ever held.

As the appeal brief filed January 22, 2007 was compliant with 37 CFR 41.37, applicant's petition is hereby **GRANTED**. The examiner shall consider the appeal brief of January 22, 2007 and take appropriate action in response thereto. The revised brief of March 19, 2007 shall not be entered.

JMStone

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

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1700 S. PATTERSON BLVD. WHQ5E
WHO-5E
DAYTON OH 45479

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AUG 0 4 2004

Director's Office
Group 3700

In re Application of
Charles Maling
Application No. 10/804,962
Filed: March 19, 2004
Attorney Docket No. 3052/1

DECISION ON PETITION

This is a decision on the petition to make special filed on concurrently with the application. The petition to make special is based upon the enhancement of environmental quality (MPEP § 708.02(v) and upon the development and conservation of energy resources (MPEP § 708.02(VI). 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(V) have been satisfied. Specifically, the second paragraph on page 2 of the petition is deemed to be a statement explaining how the invention relates to the enhancement of the quality of the environment through the maintenance of the quality of the air. 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 3747 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

Adam Evans, P.A.
(formerly Adams, Schwartz and Evans, P.A.)
2180 Two Wachovia Center
Charlotte, NC 28282

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Melvin R. Kennedy et al	:	
Application No. 10/804,973	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 6865-18-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 5, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by Mark D. Passler of Melvin R. Kennedy, stating that the inventor is over 65 years of age. Mark D. Passler is not the applicant and the petition does not include evidence of age.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to Technology Center Art Unit 3764 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Melvin R. Kennedy et al	:	DECISION ON PETITION
Application No. 10/804,973	:	TO MAKE SPECIAL UNDER
Filed: March 19, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. 6865-18-2	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed February 2, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The petition includes a copy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3764 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/804,980	03/18/2004	1775	770	01-508/1D / LSI1P174D1	5	5	1

CONFIRMATION NO. 7842

CORRECTED FILING RECEIPT

OC000000017798402

024319
LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

Date Mailed: 01/06/2006

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

Applicant(s)

Sheldon Aronowitz, San Jose, CA;
Vladimir Zubkov, Mountain View, CA;
Richard Schinella, Saratoga, CA;

Assignment For Published Patent Application

LSI Logic Corporation

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/035,501 10/25/2001 PAT 6,743,474

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 US10/804,980

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for growing thin films

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Marcia R. Meyer	: DECISION ON REQUEST FOR
Patent Number	: 7661958	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/804,984	: 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 **1322** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ELLIOT B. ARONSON
5001 HARBORD DRIVE
OAKLAND, CA 94618

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OFFICE OF PETITIONS

In re Application of	:	
Edward W. Phillips, et. al.	:	
Application No. 10/804,986	:	ON PETITION
Filed: March 20, 2004	:	
Attorney Docket No. 170.001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) due mailed April 12, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application file is being referred to the Office of Publications for processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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KEITH S BERGMAN
ATTORNEY AT LAW
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SUITE 418
SPOKANE WA 99201-3898

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In re Application of :
James W. Huffman :
Application No. 10/804,999 : DECISION ON PETITION UNDER
Filed: March 23, 2004 : 37 C.F.R. §1.137(B)
Attorney Docket Number: :
HUFFMAN, JAMES W. :
Title: METHOD AND TOOL SYSTEM :
FOR PLASTIC PIPE REPAIR :

This is a decision on the petition filed July 5, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on March 4, 2005. A Notice of Abandonment was mailed on May 3, 2005.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The present petition was received on July 5, 2005, along with the petition fee, the publication fee, the issue fee, and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Office of Patent Publications will be notified of this decision, so that the present application can be processed into a patent.

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Jerry K. Mueller, Jr.
Mueller and Smith, LPA
7700 Rivers Edge Drive
Columbus OH 43235

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JUN 09 2005

OFFICE OF PETITIONS

In re Application of
Charles L. Butland
Application No. 10/805,010
Filed: March 19, 2004
Attorney Docket No.: BTO 2-007
Title: MULTI-MODAL AUTHENTICATION, ANTI-DIVERSION AND ASSET MANAGEMENT AND METHOD

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed March 17, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 4, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

With the petition, Petitioner has submitted the petition fee, a declaration which has been executed by the inventor, the required surcharge[2], and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

Paul Shanoski

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

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 Petitioner has failed to include the surcharge, but the $65 has been charged to his deposit account, as authorized in the petition.

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P.O. Box 1450
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OFFICE OF THE DIRECTOR
TC 3600

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re application of Hirokazu Ikeda et al. Application No. 10/805,023 Filed: March 18, 2004 For: INFORMATION PROCESSING DEVICE INFORMATION PROCESSING DEVICE CONTROL METHOD, AND COMPUTER-READABLE MEDIUM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on February 07, 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 requirements (D) above. Regarding item (D), applicants have discussed numerous references, including U.S. Patents, U.S. Patent Publications, and a number of articles and publications. However, after completing a review of the application file no copies of the above-noted references have been located.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.
Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

KJD/slb: 03/22/05

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SEP 18 2005

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

In re application of Hirokazu Ikeda et al. Application No. 10/805,023 Filed: March 18, 2004 For: INFORMATION PROCESSING DEVICE, INFORMATION PROCESSING DECICE CONTROL METHOD, AND COMPUTER-READABLE MEDIUM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on April 14, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is

discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.
Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Randolph A. Reese

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

RAR/slb: 10/13/05

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OFFICE OF PETITIONS

RUSSO & DUCKWORTH, LLP
9090 Irvine Center Drive
Second Floor
Irvine CA 92618

In re Application of	:	
David M. Ruiz	:	
Application No. 10/805,037	:	DECISION ON PETITION
Filed: 03/19/2004	:	
Attorney Docket No. 848-P-1-USA	:	

This is a decision on the petition under 37 CFR 1.181, filed February 15, 2008, to withdraw the holding of abandonment for the above-identified application.

On December 22, 2006, the Office mailed a non-final Office action, which set three-month shortened statutory period for reply. Accordingly, the last day for filing a reply with an extension of time for response within the third month was June 22, 2007.

In the present petition, applicants asserted that they filed a timely reply to the non-final Office action of December 22, 2006. In support of the assertion, applicants submitted a copy of the reply and a copy of a date-stamped postcard receipt, acknowledging receipt of the response, a Declaration and Power of Attorney, a request for an extension of time within the third month, and a check in the amount of $510.00 by the USPTO on June 21, 2007.

Upon reviewing the record, the Office has located the reply, the Declaration and Power of Attorney, and the request for an extension of time within the third month (and fee) in the Image File Wrapper filed on June 21, 2007. Accordingly, the reply is considered timely filed on June 21, 2007. The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status, as the reply was timely filed.

The matter is being referred to Technology Center Art Unit 2629 for a review of the reply filed on June 21, 2007.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. None

STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVENUE, NW
WASHINGTON DC 20036

In re Application of William P. Henson, Robert S. Jakacki, Norton H. Reamer, and Alexander G. Von York Application No. 10/805,063 Filed: March 19, 2004 Attorney Docket No. 0516625.0101 Title: REVENUE SHARE INTEREST METHOD OF FINANCING AN ASSET MANAGEMENT FIRM	:	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 3, 2004.

On March 19, 2004, the application was deposited without an oath or declaration, identifying William P. Henson, Robert S. Jakacki, Norton H. Reamer, and Alexander G. Von York as joint inventors. The application was deposited with a declaration which was executed by each of the joint inventors save Mr. Henson. On June 3, 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. This Notice set a two-month period for reply.

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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.

With the instant petition, Petitioner has submitted the petition fee, a statement of facts, the surcharge, and a copy of a federal express tracking receipt. A copy of the letter which was sent to the non-signing inventor has not been provided.

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 address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski

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

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STEPHEN C. GLAZIER
KIRKPATRICK & LOCKHART NICHOLSON GRAHAN LLP
1601 K STREET, NW
WASHINGTON, DC 20006

In re application of William P. Henson et al. Application No. 10/805,063 Filed: March 19, 2004 For: REVENUE SHARE INTEREST METHOD OF FINANCING AN ASSET MANAGEMENT FIRM:	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 3, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Randolph A. Reese

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

RAR/dew: 05/05/06

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Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

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OFFICE OF PETITIONS

In re Patent of Vershuur et al.	:	
Patent No. 7,077,332	:	
Issue Date: July 18, 2006	:	Letter
Application No. 10/805,069	:	
Filing Date: March 19, 2004	:	
Attorney Docket No. 90972.000023	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 14, 2006.

The deficiency payment of $700 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. None

Hung Chang Lin
8 Schindler Ct.
Silver Spring MD 20903

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OFFICE OF PETITIONS

In re Application of
Faquir C. Jain et al.
Application No. 10/805,070
Filed: March 22, 2004
Attorney Docket No. Conn2C
Title: FULL COLOR DISPLAY STRUCTURES USING PSEUDOMORPHIC CLADDED QUANTUM DOT NANOPHOSPHOR THIN FILMS

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

This is a decision on the petition under 37 C.F.R. §1.182, filed September 20, 2004, requesting that the above-identified application be accorded a filing date of March 22, 2004, with Figure 10d as part of the original disclosure of the application.

The application was deposited on March 22, 2004. However, on June 3, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figure 10d. The notice set a two-month period for response.

Three months later, the instant petition was filed, along with Figure 10d and a copy of the notice.

Although Petitioner has set forth that the figure was not included on filing, Petitioner contends that it was constructively included, through incorporation by reference.

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. The specification indicates that the instant application is a continuation of application 09/547,415 and the Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference.

Section 201.06(c) of the MPEP sets forth, in part:

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 (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

For these reasons, the petition under 37 CFR §182 is **DISMISSED**.

The application will receive a filing date of March 22, 2004. However, Figure 10d submitted with the instant petition will not be entered.

If Petitioner desires for the missing page to be included, he should submit this page via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 22, 2004, using only the application papers filed on that date.

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

1 See MPEP 608.02(a).

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Jeffrey D. Johnson, Francine M. :
Gregoire, Anthony Schweitzer, Yuko : DECISION REFUSING STATUS
Terasawa, Maria S. Wilson and John : UNDER 37 CFR 1.47(a)
E. Blume :
Application No. 10/805,075
Filed: March 19, 2004
For: COMPOSITIONS AND METHODS OF
USING HEXOKINASE V

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 7, 2005 (certificate of mailing date: January 4, 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 19, 2004 without an executed oath or declaration and naming Jeffrey D. Johnson, Francine M. Gregoire, Anthony Schweitzer, Yuko Terasawa, Maria S. Wilson and John E. Blume as joint inventors.

Accordingly, on June 4, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on January 7, 2005 (certificate of mailing date: January 4, 2005), the instant petition and a five (5) month extension of time were filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3228.

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

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MAR 07 2005

OFFICE OF PETITIONS

In re Application of Jeffrey D. Johnson, Francine M. Gregoire, Anthony Schweitzer, Yuko Terasawa, Maria S. Wilson and John E. Blume	: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Application No. 10/805,075
Filed: March 19, 2004
For: COMPOSITIONS AND METHODS OF USING HEXOKINASE V

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 18, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor John E. Blume in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require 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).

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

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

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Paul H. Demchick
Professor Demchick's Patent Services
The Jacob Tomlinson House
407 West Broad Street
Wilson, NC 27893

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JUL 0 5 2005

Technology Center 2100

In re Application of: Thompson
Application No. 10/805,077
Filed: March 20, 2004
For: GRAPHICAL PAGING UNIT, A SYSTEM INCLUDING GRAPHICAL PAGING UNITS AND THE USE OF THOSE

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02 (VI): ENERGY

This is a decision on the petition, filed May 26, 2005, under 37 C.F.R. § 1.102(c) and M.P.E.P. §708.02(VI): Energy, to make the above-identified application special.

The petition is **DISMISSED**.

A grantable petition under 37 C.F.R. § 1.102(c), M.P.E.P. § 708.02, Section VI, must be accompanied by the showing that the application is 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. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipments, household appliances, etc. A petition under M.P.E.P. § 708.02, Section VI, should be accompanied by verified statements under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to category (A) or (B).

The petition, accompanied by a statement by Paul H. Demchick, applicant's representative, indicates that the instant application should be made special based on the fact that the preferred embodiment of the disclosed invention "includes circuitry to reduce energy consumption". More specifically, Applicant states "the polling signal exchanged between the based station and the graphical dedicated receiving units has uses in energy use reduction. The base unit records each pager unit's poll .... to dynamically adjust its transmission level use between 0.01 milliwatt and 10 milliwatt".

The claimed invention is directed to graphical dedicated receiving unit which is capable of dynamically adjusting its transmission power. The disclosure indicates the invention includes a graphical dedicated receiving unit, a patron paging system (and method) with improved capabilities for "using the system to deliver marketing messages to waiting patrons". This system and its use provide "a superior experience for waiting patrons and allow the advantage to the establishment of allowing marketing." These statements are inadequate to establish for the record ***how the invention, by "dynamically adjusting its transmission power" and "deliver marketing messages to waiting patrons" materially contributes to the more efficient utilization and conservation of energy resources*** [emphasis added] as set forth in category B (above). Further explanation is required.

As such, petitioner has failed to establish a sufficient nexus between the disclosed and claimed invention and that energy savings will result.

The petition is **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Should petitioner desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

COPY MAILED

JUN 10 2008

In re Application of	:	
Per-Ake LARSON, et al	:	
Application No. 10/805,083	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 16-570	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 2, 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 January 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; 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 2163 for appropriate action by the Examiner in the normal course of business on the reply received February 22, 2008.

Thurman K. Page

Thurman Page
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
10/805,083	03/19/2004	Per-Ake Larson	16-570

CONFIRMATION NO. 7709

WATTS HOFFMANN CO., L.P.A.
Ste. 1750
1100 Superior Avenue
Cleveland, OH 44114

POWER OF ATTORNEY NOTICE

OC000000030089106

Date Mailed: 05/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2005.

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

/dcgoodwyn/

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/805,083	03/19/2004	Per-Ake Larson	16-570

CONFIRMATION NO. 7709

22971
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

POA ACCEPTANCE LETTER

OC000000030089215

Date Mailed: 05/22/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

COPY MAILED

OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
HORTON	:	
Application No. 10/805,085	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 1300-023	:	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 2, 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 Howard A. MacCord, Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Isaac B. Horton**
RemoteLight, Inc.;
8824 Stage Ford Road
Raleigh, NC 27615

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
10/805,085	03/19/2004	Isaac B. Horton III	1300-023

CONFIRMATION NO. 7712

OC000000020657348

4678
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2006.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LORD, BISSELL & BROOK, LLP
115 South LaSalle Street, Suite 3300
Chicago IL 60603

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of

CURZON, et al.
Application No. 10/805,089
Filed: March 19, 2004
Attorney Docket No. 6770200-0001

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 2, 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 James H. Wynn on behalf of himself. James H. Wynn has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged. Any change of correspondence address must be signed by the parties as set forth in 37 CFR 1.33(a)(2).

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Robert Hastreiter**
LORD BISSELL & BROOK LLP
111 S. Wacker Drive
Chicago, IL 6066-4410

Pet. Dec

TFW

OIPE JC37
JAN 03 2005
PATENT & TRADEMARK OFFICE

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	10/805,094
Filing Date	03/19/2004
First Named Inventor	William S. Sykes
Art Unit	1742
Examiner Name	Scott R. Kastler
Attorney Docket Number	32063.00.0005

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

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
5/6/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 23418

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The law firm of Vedder Price no longer represents Applicant.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Matthew Pasulka, Esq.				
Address	8528 Society Pl.				
City	Raleigh	State	NC	Zip	27615
Country	USA				
Telephone				Fax	
Signature	Michael J. Turgeon				
Name	Michael J. Turgeon	Registration No.	39,404		
Date	12/28/04	Telephone No.	(312) 609-7716		

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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BRIAN M. BERLINER
O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Hans Weissberg	:	
Application No. 10/805,134	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 160405-2	:	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 9, 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 Brian M. Berliner on behalf of all attorneys of record.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Hans Weissberg
CLIP-TOYS AG
c/o Schurmann & Partner
Limmatquai 3, 8001 Zurich
Switzerland

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,138	03/19/2004	Norman Paul Jouppi	200400376-1	8918

7590 04/17/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
LEE, Y MY QUACH

ART UNIT	PAPER NUMBER
2885	

NOTIFICATION DATE	DELIVERY MODE
04/17/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/17/2008 DTERRY
03/26/2004 DTESSEM1 00000082 082025 10805138
02 FC:1201 88.00 CR

FORM PET651G (Rev. 08/07)

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DEC 07 2004

TECHNOLOGY CENTER 3600

JAMES W. KOLLAS
1104 FERNWOOD AVENUE
CAMP HILL PA 17011

In re Application of:
William E. Peterson Jr., et al.
Serial No. 10/805,143
Filed: March 19, 2004
For: CRIB WITH HIDDEN HARDWARE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed September 3, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a letter from co-inventor Manuel Cardona's physician attesting to the fact that Mr. Cardona has HIV infection. However, the letter merely documents an existing medical condition. The petitioner has not provided evidence establishing that Mr. Cardona's medical condition might result in the inability of the Mr. Cardona to assist in prosecution of the application if it were to run its normal course.

For the above stated reasons, the petition is **DISMISSED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 12/2/04

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THOMAS LOOP
GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE, SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Kenneth A. Frankel	: DECISION ON REQUEST FOR
Patent Number	: 7638084	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **510** 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/805,159	03/19/2004	3731	770	MED-0053C2	3	5	1

CONFIRMATION NO. 8631

CORRECTED FILING RECEIPT

OC000000013073895

33941
MONTE & MCGRAW, PC
4092 SKIPPACK PIKE
P.O. BOX 650
SKIPPACK, PA 19474

Date Mailed: 06/29/2004

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

Applicant(s)

Michael Ignazio Basta, Kulpsville, PA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/974,116 10/09/2001 PAT 6,730,096
which is a DIV of 09/476,755 01/03/2000 PAT 6,342,120
which is a DIV of 09/076,900 05/13/1998 PAT 6,033,382
which is a CON of 08/611,927 03/06/1996 PAT 5,830,184

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2004

Projected Publication Date: 10/07/2004

Non-Publication Request: No

Early Publication Request: No

Title

Catheter extracting device

Preliminary Class
606

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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE SUITE 1600
CHICAGO IL 60603

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of	:
Abrahams and Gragossian	: DECISION REFUSING
Application No. 10/805,170	: STATUS UNDER
Filed: March 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 81101/7114	:
For: A SYSTEM FOR UBIQUITOUS NETWORK PRESENCE AND ACCESS WITHOUT COOKIES	:

This is in response to the petition under 37 CFR 1.47(b), filed October 4, 2004.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 19, 2004 without an executed oath or declaration and filing fees. Accordingly, on June 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on October 4, 2004, petitioner filed a petition for a two month extension of time and required fee; a copy of Employee Patent and Confidential Information Agreements between Sony Electronics, Inc. (Sony) and non-signing inventors Marc D. Abrahams and Seda Gragossian that shows the inventors had a duty to assign rights in the invention to Sony; a declaration executed by Attorney Martin R. Bader on behalf of the non-signing inventors; the surcharge; application filing fees; the petition fee; and the instant petition.

Three declarations of facts accompanied the petition. Carrie Merzbacher, Patent Administrator for Sony, explains that Mr. Abrahams orally refused to execute the declaration for patent application. Nola Hines, employee of a law firm affiliated with the attorneys of record, explains that she mailed two copies of the application papers and declaration and assignment to Mr. Abrahams and that Mr. Abrahams refused to accept both mailing. Barbara Zamorano, employee of a law firm affiliated with the attorneys of record, explains that she twice successfully mailed a copy of the application and declaration and assignment to Mr. Gragossian, but Mr. Gragossian did not reply to requests that he return an executed declaration and assignment.

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 (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is signed by Attorney Martin R. Bader on behalf of the non-signing inventors. Unfortunately, Attorney Bader signed the non-signing inventors names in their respective signature blocks. The non-signing inventors' signature blocks should be left blank to avoid ambiguity regarding their execution of the document.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE SUITE 1600
CHICAGO IL 60603

COPY MAILED
MAR 18 2005
OFFICE OF PETITIONS

FAX RECEIVED
MAR 18 2005
CANCELLED
OFFICE OF PETITIONS

In re Application of
Abrahams and Gragossian
Application No. 10/805,170
Filed: March 19, 2004
Attorney Docket No. 81101/7114
For: A SYSTEM FOR UBIQUITOUS NETWORK PRESENCE AND ACCESS WITHOUT COOKIES

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed January 28, 2005.

The petition is granted.

Petitioner has shown that the non-signing inventors, Marc D. Abrahams and Seda Gragossian, have expressly or constructively refused to join in the filing of the above-identified application. Specifically, Carrie Merzbacher, Patent Administrator for Sony, explains that Mr. Abrahams orally refused to execute the declaration for patent application. Nola Hines, employee of a law firm affiliated with the attorneys of record, explains that she mailed two copies of the application papers and declaration and assignment to Mr. Abrahams and that Mr. Abrahams refused to accept both mailings. Barbara Zamorano, employee of a law firm affiliated with the attorneys of record, explains that she twice successfully mailed a copy of the application and declaration and assignment to Mr. Gragossian, but Mr. Gragossian did not reply to requests that he return an executed declaration and assignment.

In addition, petitioner has shown that Sony Electronics, Inc. (Sony) has a proprietary interest in the above-identified application with a copy of Employee Patent and Confidential Information Agreements between Sony and non-signing inventors Marc D. Abrahams and Seda Gragossian that shows the inventors had a duty to assign rights in the invention to Sony. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 forwarded to Technology Center 2100 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARC DAVID ABRAHAMS
17388 GARNDEE PLACE
SAN DIEGO, CA 92128

FAX RECEIVED
CANCELLED
MAR 18 2005

OFFICE OF PETITIONS

In re Application of
Abrahams and Gragossian
Application No. 10/805,170
Filed: March 19, 2004
Attorney Docket No. 81101/7114
For: A SYSTEM FOR UBIQUITOUS NETWORK PRESENCE AND ACCESS WITHOUT COOKIES

LETTER

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

Dear Mr. Abrahams:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE SUITE 1600
CHICAGO IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEDA GRAGOSSIAN
829 VAL SERENO DRIVE
ENCINITAS, CA 92024

FAX RECEIVED
CANCELLED
MAR 18 2005
OFFICE OF PETITIONS

In re Application of
Abrahams and Gragossian
Application No. 10/805,170
Filed: March 19, 2004
Attorney Docket No. 81101/7114
For: A SYSTEM FOR UBIQUITOUS NETWORK PRESENCE AND ACCESS WITHOUT COOKIES

LETTER COPY MAILED
MAR 18 2005
OFFICE OF PETITIONS

Dear Mr. Gragossian:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE SUITE 1600
CHICAGO IL 60603

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/03/09

TO SPE OF : ART UNIT 2445

SUBJECT : Request for Certificate of Correction for Appl. No.: 10805173 Patent No.: 7568018

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: _____

_____

_____

_____

_____

Melvin Pollack 2445

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

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

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AUG 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Landes et al.	:	
Application No. 10/805,177	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 21402-665 (CURA 965)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 20, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on September 21, 2007. A Notice of Abandonment was mailed March 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 a response to the Restriction Requirement, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Additionally, 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 $1,175.00, five month extension of time fee submitted on July 7, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received July 7, 2009.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CARL O. OLSSON
25, CHEMIN D.CHENEVIERES
EVILARD CH 25-33 CH SWITZERLAND

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SEP 17 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Carl O. Olsson
Application No. 10/805,200
Filed: March 22, 2004
Title of Invention: APPARATUS AND METHODS FOR REGULATING ELECTRIC POWER

This is a decision on the petition under 37 CFR 1.137(a), filed August 6, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A non-Final Office Action was mailed February 21, 2006. A response was due not later than May 21, 2006. A response in the form of an amendment was filed May 22, 2006 with a certificate of mail dated May 11, 2006. However, on June 1, 2006 the applicant was advised in a "Notice of Non-Compliant Amendment" that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the June 1, 2006 Notice. Although an extension of time request was filed June 20, 2006, it was filed without the required extension of time fee and without the response to the non-final Office Action. Subsequently on July 10, 2006 (certificate of mail date July 4, 2006) a response was filed, again though without an extension of time and fee. Thereafter, on July 21 2006, a Notice was sent advising that for the response filed July 10, 2006 to be timely, a one month extension of time fee was required. Petitioner did in fact respond in August 14, 2006 (certificate of mail date August 7, 2006) with a one month extension of time but unfortunately in this case, the extension of time only extended the period for reply to August 1, 2006. Thus the application became abandoned and accordingly, a Notice of Abandonment was mailed June 25, 2007.

Petitioner asserts unavoidable delay in filing the response to the "Notice of Non-Compliant Amendment mailed June 1, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

---

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

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

Petitioner has not provided any explanation as to why the delay in responding to the "Notice of Non-Compliant Amendment" was not filed by July 1, 2006. The time for responding to the Notice of Non-Compliant Amendment was set for one month from the mailing of the Notice.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

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

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

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

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

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

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

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CARL O. OLSSON
25, CHEMIN D.CHENEVIERES
EVILARD CH 25-33 CH SWITZERLAND

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FEB 15 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Carl O. Olsson
Application No. 10/805,200
Filed: March 22, 2004
Title of Invention: APPARATUS AND METHODS FOR REGULATING ELECTRIC POWER

This is a decision on the petition under 37 CFR 1.137(b),[1] filed January 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed February 21, 2006. A response was due not later than May 21, 2006. A response in the form of an amendment was filed May 22, 2006 with a certificate of mail dated May 11, 2006. However, on June 1, 2006 the applicant was advised in a "Notice of Non-Compliant Amendment" that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the June 1, 2006 Notice. Although an extension of time request was filed June 20, 2006, it was filed without the required extension of time fee and without the response to the non-final Office Action. Subsequently on July 10, 2006 (certificate of

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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©)).

mail date July 4, 2006) a response was filed, again though without an extension of time and fee. Thereafter, on July 21 2006, a Notice was sent advising that for the response filed July 10, 2006 to be timely, a one month extension of time fee was required. Petitioner did in fact respond in August 14, 2006 (certificate of mail date August 7, 2006) with a one month extension of time but unfortunately in this case, the extension of time only extended the period for reply to August 1, 2006. Thus the application became abandoned and accordingly, a Notice of Abandonment was mailed June 25, 2007. A petition to revive under 37 CFR 1.137(a) was filed August 7, 2007 but was dismissed in a decision mailed September 17, 2007.

Comes now petitioner with the instant petition to revive under the unintentional standard.

All requirements under 37 CFR 1.137(b) having been met, including the filing of a supplemental amendment on January 23, 2008, this matter is being referred to Technology Center 2838 for treatment of the amendment, as appropriate.

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

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

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

Mail Date: 04/21/2010

Applicant	: Yasuhiro Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7652784	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,229	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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Paper No.

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

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of Taguchi et al. Application No. 10/805,251 Filed: March 22, 2004 Attorney Docket No. Q80578	DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. § 1.17(h)," filed August 4, 2004. Petitioner requests, in essence, that the above-identified application be accorded a filing date of March 22, 2004, with page 2 of the specification considered a part of the original application disclosure.

Application papers in the above-identified application were filed on March 22, 2004. However, on June 4, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicants that the application papers had been accorded a filing date of March 22, 2004; however, page 2 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (and petition fee). Applicants contend that a complete set of specification of one-hundred and forty-eight (148) pages (comprising the specification, claims and abstract), including the purportedly missing page 2 of the specification, was actually filed, received and acknowledged by the PTO on March 22, 2004. In support thereof, applicants submitted a copy of their return postcard from the USPTO. Petitioner also submitted a copy of the application as they maintain it was originally filed.

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 petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on March 22, 2004, and the items filed therewith were assigned Application No. 10/805,251; 2) it specifically identifies the items being filed, including "#Pgs. Spec/Abst: 147/1" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted were filed on March 22, 2004.

The application papers already considered received in the Office on March 22, 2004, were reviewed along with page 2 of the specification submitted on petition. These papers together

constitute the items described on the postcard receipt as "#Pgs. Spec/Abst: 147/1." It is concluded that petitioner has shown that page 2 of the specification was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-4880, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. OIPE will:

- reprocess the application with a filing date of March 22, 2004 using the application papers received in the Office and presently accorded that date; and page 2 of the specification resupplied on petition filed August 4, 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 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

JUL 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Nonaka, et al.
Application No. 10/805,260
Filed: 22 March 2004
For: STORAGE SYSTEM HAVING A PLURALITY OF INTERFACES

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

This is a decision on the petition filed 3 June 2005 to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application 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

GO

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HDSL
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

COPY MAILED

JUL 20 2007

OFFICE OF PETITIONS

In re Application of :
Hsien-Ta Huang. :
Application No. 10/805,267 : ON PETITION
Filed: March 22, 2004 :
Attorney Docket No. BHT-3106-313 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 25, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 10,2 006, after no response was received to the Notice of Allowance and Issue Fee Due mailed August 9, 2006. The notice allowed a statutory period for reply of three (3) months from its mailing date. A response was not received within the allowable period, and the application became abandoned on November 10, 2006. A Notice of Abandonment was mailed on December 6, 2006.

The instant petition was filed on June 25, 2007. Petitioner maintains that the Notice of Allowance was mailed to an incorrect address. A review of the application file history reveals that a revocation of power of attorney and new appointment of attorney was filed July 24, 2006, changing the representation and correspondence address of record. The revocation of power of attorney and new appointment of attorney was not entered, and the Notice of Allowance and Issue Fee Due was mailed to an incorrect address. The evidence is convincing that the request to change the correspondence address of record was filed prior to the mailing of the Notice of Allowance and Issue Fee Due and said notice was improperly mailed to an incorrect correspondence address.

Based on the aforementioned, it appears that the application was improperly held abandoned. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to the Office of Patent Publications for remailing of Notice of Allowance and Issue Fee Due and resetting of the time period for reply.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

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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
10/805,267	03/22/2004	Hsien-Ta Huang	BHT-3106-313

CONFIRMATION NO. 8965

OC000000024927383

TROXELL LAW OFFICE PLLC
Suite 1404
5205 Leesburg Pike
Falls Church, VA 22041

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

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

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

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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
10/805,267	03/22/2004	Hsien-Ta Huang	BHT-3106-313

CONFIRMATION NO. 8965

OC000000024927423

46103
HDSL
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

Date Mailed: 07/20/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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

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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/805,267	03/22/2004	Hsien-Ta Huang	BHT-3106-313

CONFIRMATION NO. 8965

OC000000024927383

TROXELL LAW OFFICE PLLC
Suite 1404
5205 Leesburg Pike
Falls Church, VA 22041

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

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

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

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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

In re Application of :
SETOGUCHI, NOBUO, et al. :
Application No. 10/805,275 :
Filed: March 22, 2004 :
For: **DIGITAL MOTION PICTURE DECODING APPARATUS AND DIGITAL MOTION PICTURE DECODING METHOD** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 3, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

In re Application of	:	
Nobuo Setoguchi, et al.	:	
Application No. 10/805,275	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No.: 64766-012	:	

This is a decision on the petition, filed September 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 4, 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 2621 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).

Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No. 10805275

10805275

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: BRINKLEY, SHERRY

Count (1) - Palm Credit 10/805,275

Decision Type: 505 - 37 CFR 1.313(a), (c)(1) & (c)(2) - W/D FROM ISSUE AFTER PAYMENT OF

Decision: GRANT

Time Period for Reply: n/a

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

_____ Initials of Approving Official (if required)

Printed on: *9/1/06*

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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
10/805,413	03/19/2004	2631	1744	60809-0134-US	33	55	7

CONFIRMATION NO. 9288

CORRECTED FILING RECEIPT

OC000000013659620

38426
MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Date Mailed: 08/27/2004

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)

Jared L. Zerbe, Woodside, CA;
Carl W. Werner, Los Gatos, CA;
William F. Stonecypher, San Jose, CA;
Fred F. Chen, San Francisco, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/515,179 10/27/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2004

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Transparent multi-mode PAM interface

Preliminary Class
375

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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JUN 16 2005

DICKINSON WRIGHT PLLC
Suite 800
1901 L St. N.W.
Washington, D.C. 20036

In re Application of:
Frances Barbaro-Altieri
Serial No. 10/805,415
Filed: March 22, 2004
For: INTERACTIVE SOFTWARE APPLICATION PLATFORM

DECISION ON PETITION TO MAKE SPECIAL APPLICANT'S HEALTH

This is a decision on the petition filed March 9, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run its normal course.

The petition includes a letter from the applicant's doctor dated February 17, 2005 attesting to the fact that the state of health of Frances Barbaro-Altieri is such that she might not be available to assist in the prosecution of her patent application if it were to run its normal course. 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 health if said prosecution were to run its normal course.

For the above stated reasons, the petition under Section III 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) 272-6611

KJD/js: 6/08/05

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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 04/20/2010

Applicant	: Hiroshi Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7610388	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,428	: 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 **1487** 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 26 2009

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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

In re Application of
Robert Preston Parker, et al.
Application No. 10/805,440
Filed: March 19, 2004
Attorney Docket No. 02103-582001 /
AABOSW36

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 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 21, 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 Terri Williams at (571) 272-2991.

This application 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 concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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MARTIN NOVACK, ESQ.
16355 VINTAGE OAKS LANE
DELRAY BEACH FL 33484

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SEP 11 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Nick Holonyak Jr., et al	:
Application No. 10/805,454	:
Filed: March 19, 2004	:
Attorney Docket No. UI-TF-01024D1	:

This is a decision on the petition, filed September 8, 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 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 2818 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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PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

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MAR 03 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Harm-Jan Voorma et al	:	
Application No. 10/805,526	:	
Filed: March 22, 2004	:	
Attorney Docket No. 081468-0308800	:	

This is a decision on the petition, filed February 23, 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 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2851 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Elisabeth Le Nestour	:	
Patent Number: 7,507,769	:	
Issue Date: 03/24/2009	:	
Application No. 10/805,528	:	ON REQUEST FOR
Filing or 371(c) Date: 03/22/2004	:	RECONSIDERATION OF
Attorney Docket Number: 088734-1106	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed May 22, 2009. This matter is being properly treated under 37 CFR 1.705(d).

Patentee requests reconsideration of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentee also requests that a decision on the request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas, supra.

There is no specific regulatory authority for holding a decision on an application for patent term adjustment under 37 CFR 1.705(d) in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **DISMISSED**.

On March 24, 2009, the above-identified application matured into U.S. Patent No. 7,507,769 with a patent term adjustment of 465 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee acknowledges the adjustment of 164 days pursuant to 37 CFR 1.702(a)(1) and the adjustment of 152 days pursuant to 37 CFR 1.702(a)(2).

Patentee asserts an applicant delay of 212 days (85 days + 30 days + 91 days + 6 days).

As to the applicant delay, patentee's calculation of adjustment fails to reflect the applicant delay of 56 days pursuant to 37 CFR 1.704(b) in connection with the reply to the Notice to File Missing Parts of Nonprovisional Application mailed June 7, 2004, to which a reply was filed three months and 56 days later on November 2, 2004.

Regarding Patentee requests for recalculation of the patent term adjustment in view of Wyeth v. Dudas, supra, Patentee asserts that a PTO delay under 35 USC § 154(b)(1)(A) overlaps with a delay under § 154(b)(1)(B) only if the delays occur on the same day. Patentee asserts adjustments pursuant to 37 CFR 1.702(a) of 164 days and 152 days, or 316 days. Patentee asserts adjustment pursuant to 37 CFR 1.702(b) of 733 days. Patentee's calculation of adjustment reflects an overall adjustment of 685 days (316 days + 733 days – 152 days of overlap – 212 days of applicant delay).

Under 37 CFR 1.703(f), patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentee failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentee is entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on March 24, 2009, the application was pending three years and 733 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 316 days is correct. At issue is whether patentee should accrue 733 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 316 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 316 days of examination delay overlaps with the period of 733 days of delay in issuance of the patent. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to

interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 22, 2004, to the date the patent issued on March 24, 2009. Prior to the issuance of the patent, 316 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 316 days of examination delay overlap with the 733 days for Office delay in issuing the patent. The Office took 14 months and 164 days to issue a first Office action. The Office took four months and 152 days to respond to a reply under 37 CFR 1.132. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the 316 days of examination delay and the time allowed within the time frames for processing and examination, the patent issued three years and 733 days after its filing date. However, the Office did not delay 316 days and also delay an additional 733 days. Accordingly, 733 days of patent term adjustment was properly entered because the period of delay of 316 days attributable to grounds specified in § 1.702(a) overlaps with the adjustment of 733 days attributable to the delay in the issuance of the patent. Accordingly, at issuance, the Office entered 417 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent, thus acknowledging the actual period of 733 days of delay in issuance of the patent.

In view thereof, no adjustment to the patent term will be made.

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

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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MAY 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Elisabeth LeNestour	:	
Patent Number: 7,507,769	:	DECISION ON REQUEST
Issue Date: 03/24/2009	:	FOR RECONSIDERATION OF
Application No. 10/805528	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/22/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
088734-1106	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 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 six hundred twenty-nine (629) 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 six hundred twenty-nine (629) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred twenty-nine (629) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,507,769 B2

DATED : March 24, 2009

INVENTOR(S) : Nestour

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 465 days.

Delete the phrase "by 465 days" and insert – by 629 days--

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/805,562	03/19/2004	1614	1530	05882.0118.CPUS02	3	55	2

CONFIRMATION NO. 9530

CORRECTED FILING RECEIPT

OC000000014090189

27194
HOWREY SIMON ARNOLD & WHITE, LLP
C/O M.P. DROSOS, DIRECTOR OF IP ADMINISTRATION
2941 FAIRVIEW PK
BOX 7
FALLS CHURCH, VA 22042

Date Mailed: 10/14/2004

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)

Rolf Ehrhardt, San Francisco, CA;
Daniel J. Levitt, San Francisco, CA, UKRAINE;
Beth Layug, San Francisco, CA;
Don O'Neill, Furlong, PA;
Nancy Wedel, Oakland, CA;
Lars Ostberg, Los Altos, CA;

Assignment For Published Patent Application

Protein Design Labs, Inc., Fremont, CA

Power of Attorney: The patent practitioners associated with Customer Number **27194**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/440,202 05/16/2003
which claims benefit of 60/383,310 05/22/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/05/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/805,562

Projected Publication Date: 01/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Treatment of Crohn's disease or psoriasis using anti-interferon gamma antibodies

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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SALT LAKE CITY, UT 84101

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of	:
Sung Soon Kang	:
Application No. 10/805,563	: DECISION ON PETITION
Filed: March 19, 2004	: UNDER 37 CFR 1.181
Attorney Docket No. 2566.2.43	:

This is a decision on the petition filed July 7, 2005, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any reconsideration of this decision should be filed within two months from the mail date of this decision. *Note* 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply within the one month extendable period set in the Office action mailed November 1, 2004. A Notice of Abandonment was mailed on June 22, 2005.

Petitioner asserts that failure to reply was due to nonreceipt of the Office action dated November 1, 2004.

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 applicant at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. *See* 1156 Official

Gazette 53 (November 16, 1993) and MPEP Section 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action."

The petition satisfies items 1 and 2 above; however, the petition fails to completely satisfy item 3. In this regard, while petitioner has submitted a copy of the file jacket purportedly showing where the Office action would have been entered had it been received, petitioner has not submitted a copy of the complete docket record for this case. More specifically, the petition is accompanied by the docket records for other cases showing receipt and docketing of correspondence in other files. However, no like docket record has been submitted for this case. Therefore, the petition fails to include a copy of all the docket records for this case and, therefore, does not satisfy item 3 above.

If petitioner is unable to or does not wish to supply the evidence required above, petitioner should consider filing a petition to revive under the unintentional provisions of 37 CFR 1.137(b).

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Sung Soon Kang	:	
Application No. 10/805,563	:	DECISION GRANTING PETITION
Filed: March 19, 2004	:	UNDER 37 CFR 1.181
Attorney Docket No. 2566.2.43	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed January 8, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The showing presented is sufficient to establish nonreceipt of the Office action of November 1, 2004. Accordingly, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

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

The application file is being referred to the Technology Center AU 3671 support staff for remailing of the November 1, 2004 Office action and restarting the period for reply from the mailing date thereof.

Frances Hicks
Petitions Examiner
Office of Petitions

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
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SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Jack B. Andersen	: DECISION ON REQUEST FOR
Patent Number	: 7590251	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **958** 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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SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Jack B. Andersen	: DECISION ON REQUEST FOR
Patent Number	: 7584009	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **992** 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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LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

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OFFICE OF PETITIONS

In re Application of	:	
KOST, Michael A. et al.	:	
Application No. 10/805,594	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. **ELAN-01184US1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 13, 2009.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to LAW OFFICES OF MARK L. BERRIER has been revoked by the assignee of the patent application on January 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **FLIESLER MEYER LLP**
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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OFFICE OF PETITIONS

In re Application of	:	
Tooru Hishiyama et al.	:	
Application No. 10/805,618	:	DECISION GRANTING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04149 /LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 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 May 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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 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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P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Charles E. Rogler et al	:	
Application No. 10/805,653	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 03368/100D888-US3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 6, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 7, 2006.

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

This matter is being referred to Technology Center AU 1632 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Church Street Station
New York, NY 10008-0770

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AUG 13 2008

In re Application of	:	
Charles E. Rogler, et al.	:	
Application No. 10/805,653	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 03368/100D888-US3	:	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 20, 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 Bernstein on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 3, 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Charles E. Rogler**
42 Blossom Lane
Carmel, NY 10512

cc: **John L. Harb**
Office of Biotechnology
Albert Einstein College of Medicine
1300 Morris Park Avenue
Bronx, NY 10461

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
10/805,653	03/19/2004	Charles E. Rogler	03368/100D888-US3

CONFIRMATION NO. 9589

POWER OF ATTORNEY NOTICE

OC000000031539251

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/20/2008.

- 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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220 FIFTH AVENUE
16TH FLOOR
NEW YORK NY 10001-7708

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Satoshi Ogawa et al	:	
Application No. 10/805,664	:	DECISION GRANTING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04177/LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 15, 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 10, 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 3663 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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James H. Patterson, Esq. (For Patent Owner)
Patterson, Thuente,
Skaar & Christensen, P.A.
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80 South 8th Street
Minneapolis, MN 55402-2100

Carl J. Schwedler (For Third Party Requester)
McDonough Holland and Allen P.C.
555 Capitol Mall, Ninth Floor
Sacramento, CA 95814

MAILED
JUL 19 2005
REEXAM UNIT

In re Reissue Application of Richard J. Morris et al. Application No. 10/805,686 Filed: March 19, 2004 For: U.S. Patent No. 6,357,193	:	DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS
In re Richard J. Morris, et al. Reexamination Proceeding Control No. 90/007,487 Filed: March 29, 2005 For: U.S. Patent No. 6,357,193	:	

The above reissue and reexamination proceedings are before the Office of Patent Legal Administration for *sua sponte* consideration of whether the proceedings should be merged under 37 CFR 1.565(d) at this time.

REVIEW OF FACTS

1. U.S. patent No. 6,357,193 issued on March 19, 2002, with 22 claims.

2. An application for reissue, assigned application No. 10/805,686, was filed by the patent owner on March 19, 2004.

3. The filing of the '686 reissue application was announced in the *Official Gazette* on November 23, 2004.

4. A request for reexamination was filed by a third party requester on March 29, 2005, and was assigned control No. 90/007,487 (hereinafter, the '7487 proceeding).

5. Reexamination was ordered for the '7487 reexamination proceeding on June 2, 2005.

6. An information disclosure statement under 37 CFR 1.555 was filed in the '7487 proceeding by the patent owner on June 9, 2005.[1]

7. A patent owner's statement under 37 CFR 1.530 was not received in the '7487 proceeding.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 10/805,686 and reexamination control No. 90/007,487 are currently pending. Since the order to reexamine has been mailed in the reexamination proceeding, a decision under 37 CFR 1.565(d) is timely.

---

[1]On June 15, 2005, a certificate of service certifying that copies c all papers filed with the Office on June 9, 2005, were served on the thi party requester, was received by the Office.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately, at the same time, as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In order to provide efficient and prompt handling of the reissue and reexamination proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the instant reissue and reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary**. *The present merger is not an assurance that, in a future similar situation, merger would be ordered.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-noted reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings

1. The patent owner is required to maintain identical amendments in the reissue application and the reexamination proceeding for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings

remain merged. See 37 CFR 1.565(d).

2. A review of the file for reexamination control No. 90/007,487 shows that original patent claims 1-22 are present. A review of reissue application No. 10/805,686 shows that original patent claims 4, 5, 7, 10-13 and 21 are present, patent claims 1, 14-20 and 22 are canceled, and patent claims 2, 3, 6, 8, and 9 are amended. In addition, new claims 23-25 have been added. **Accordingly, the claims are not identical in both proceedings.**

   An appropriate housekeeping amendment (in one or both cases) is required within <u>ONE (1) MONTH</u> of this decision placing the same amendments in both cases, specifically, Application No. 10/805,686 and Control Number 90/007,487. The response to the requirement must be limited to placing the same amendments in all cases, and patent owner must **not** address any issue of patentability in the housekeeping amendment. It is to be noted that, pursuant to MPEP 2285, amendments in a merged reexamination/reissue proceeding are submitted in accordance with the reissue practice under 37 CFR 1.173.

III. <u>Conduct of the Merged Reissue Application Examination and Reexamination Proceedings</u>

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action for the merged proceeding.

2. In the event that a housekeeping amendment is not timely submitted, any claim which does not contain identical text in both proceedings should be rejected under 35 U.S.C. 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of *ex parte* reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner

will apply the reissue statute, rules, and case law to the merged proceeding. **However, periods for response should be set at TWO (2) months to comply with the statutory requirement for special dispatch in reexamination (35 U.S.C. 305).**

4. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding, and each action will be entered into both files (which will be maintained as separate files).

5. Any response by the applicant/patent owner must consist of a single response, with two copies being filed for entry in the two files, with each of the two bearing a signature. Any such response must contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding. *Any such responses must be served on the requester*, who will also be sent copies of Office actions.

6. Pursuant to MPEP 2285:

> "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

Thus, the filing of any amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173, and with the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does not apply to amendments in a reissue application. Accordingly, clean copies of the amended claims are not required, *and such clean copies are not to be submitted*. Instead, pursuant to 37 CFR 1.173(b)(2), amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim.

Pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the

date of filing the reissue application. *Amendments are not to be made relative to previous amendments*. Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets.

7. Where a paper is filed which requires payment of a fee (e.g., petition fee, appeal fee, brief fee, oral hearing fee), only a single fee need be paid. For example, only one fee need be paid for patent owner's appeal brief, even though the brief relates to the merged multiple proceedings, and even though copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner (a) will review the files to ensure that each file contains identical citations of prior patents and printed publications, and (b) will cite such documents as are necessary as part of the next Office action in order to place the files in that condition.

9. If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be dissolved. The reissue application will be held abandoned. The reexamination prosecution will be terminated, and a reexamination certificate under 37 CFR 1.570 will be issued in accordance with the last action of the Office, unless further action in the reexamination proceeding is needed as a result of the difference in the rules relating to reexamination and reissue proceedings. If further action in the reexamination proceeding is needed, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner, upon dissolution of the merged proceeding. The existence of any questions/issues

remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper for consideration in reexamination pursuant to 37 CFR 1.552(c).

11. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

CONCLUSION

1. Reissue application No. 10/805,686 and reexamination control No. 90/007,487 **are merged** into a single proceeding.

2. Pursuant to Part II of this decision, it is required that applicant/patent owner file, **within ONE MONTH of this decision**, a housekeeping amendment placing the same amendments in both cases of the present merged proceeding.

3. Because the reexamination request is granted and the reissue and reexamination proceedings are merged, the merged proceeding will be handled by the examiner assigned to the reexamination proceeding, pursuant to MPEP 2236. Accordingly, the reissue and reexamination proceedings are being forwarded to the examiner via the Director of Technology Center 2800. Upon receipt of same, the examiner **should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of** (a) the submission of the housekeeping amendment to place the same amendments in both cases or (b) the expiration of the ONE MONTH period from the mailing of this decision for filing the amendment.

4. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

5. Telephone inquiries related to this decision should be directed to Cynthia L. Nessler, Legal Advisor, at (571) 272-7724.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

07/13/2005

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JJGJr: 03-05

Paper No: __

TIMOTHY D. SMITH
BROUSE MCDOWELL, LPA
STE. 500
106 S. MAIN STREET
AKRON OH 44308-1471

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MAR 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Spivak et al.	:	
Application No. 10/805,689	:	DECISION ON PETITION
Filed: 22 March, 2004	:	
Attorney Docket No.: 31399.25504	:	

This is a decision on the petition filed on 11 January, 2005, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTES:

(1) Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 22 March, 2004, absent, *inter alia*, a fully executed oath/declaration;

- when Petitioner's 11 August, 2004, response to the 7 June, 2004, Notice of Missing Parts was insufficient (unsigned oath/declaration) the Office mailed a Notice of Incomplete Reply on 1 September, 2004;

- on 19 January, 2005, Petitioner Timothy D. Smith (Reg. No. 50,880) replied (with a request and fee for extension of time) with an oath/declaration signed by co-inventors Messrs. Mastandrea, Thomason and Niedel, but without the signature of non-signing inventor Paul Spivak (Mr. Spivak), and with a statement by Petitioner that "a letter was sent to Mr. Spivak with the Oath and declaration requesting his signature," and clearly there is no indication that a copy of the entire application (description, claims, abstract and drawings) was presented to Mr. Spivak as required..

ANALYSIS

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37

C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted (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 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

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

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

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OFFICE OF PETITIONS

TIMOTHY D. SMITH
BROUSE MCDOWELL, LPA
STE. 500
106 S. MAIN STREET
AKRON OH 44308-1471

In re Application of	:	
Spivak et al.	:	
Application No. 10/805,689	:	DECISION ON PETITION
Filed: 22 March, 2004	:	
Attorney Docket No.: 31399.25504	:	

This is a decision on the petition filed on 7 October, 2005, under 37 C.F.R. §1.47(a).

The petition is **DISMISSED as moot**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 22 March, 2004, absent, *inter alia*, a fully executed oath/declaration;
- when Petitioner's 11 August, 2004, response to the 7 June, 2004, Notice of Missing Parts was insufficient (unsigned oath/declaration) the Office mailed a Notice of Incomplete Reply on 1 September, 2004;
- on 19 January, 2005, Petitioner Timothy D. Smith (Reg. No. 50,880) replied (with a request and fee for extension of time) with an oath/declaration signed by co-inventors Messrs. Mastandrea, Thomason and Niedel, but without the signature of non-signing

inventor Paul Spivak (Mr. Spivak), and with a statement by Petitioner that "a letter was sent to Mr. Spivak with the Oath and declaration requesting his signature," and there was no indication that a copy of the entire application (description, claims, abstract and drawings) was presented to Mr. Spivak as required, and so the petition was dismissed on 9 March, 2005;

- the instant petition was filed on7 October, 2005, with, inter alia, a request and fee for extension of time and an oath/declaration signed by Mr. Spivak–under additional papers Petitioner also seeks a decision on a petition under 37 C.F.R. §1.48 as to the inventive entity with statements of concurrence by Messrs. Mastandrea, Thomason and Niedel.

Thus, it now appears that the oath/declaration has been signed by all inventors.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

Because a substantive determination on the petition under 37 C.F.R. §1.47(a) is obviated by Mr. Spivak's joinder, the petition under 37 C.F.R. §1.47(a) properly is referred to the Examiner for a determination.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

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

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

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OFFICE OF PETITIONS

In re Application of :
Basilicato and Notarianni :
Application No.: 10/805,698 : ON PETITION
Filed: March 22, 2004 :
Attorney Docket No.: NUMO-0030 :

This a decision on the petition filed August 6, 2004. The petition will be treated under 37 CFR 1.182.

The petition is **dismissed.**

The application was filed on March 22, 2004. On June 7, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of March 22, 2004, but that an executed oath or declaration was missing and Figure 4, as described in the specification, appeared to have been omitted. Relative to the alleged omitted figure, the Notice allowed a non-extendable period for reply of two months from its mailing date.

The present petition was filed on August 6, 2004, responsively. Petitioner therein argued that Figure 4 accompanied the original application papers. In support, a complete copy of the application papers allegedly filed on March 22, 2004, including Figure 4, accompanies the petition. Petitioner also filed a copy of the application transmittal sheet indicating that four sheets of drawings were filed, and a copy of a checklist used by petitioner to ensure that application is complete on filing.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the "Office) file is the official record of the papers originally filed in this application. A review of the application file reveals that three sheets of drawings were filed on March 22, 2004. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that counsel asserts that Figure 4 was among the eight sheets of drawings originally filed is not more persuasive than the actual drawings shown to have been received by the official file. Further, petitioner did not provide a copy of an itemized Office date-stamped postcard whereby the Office would have

acknowledged receiving four sheets of drawings and that would serve as prima facie evidence that Figure 4 was received on March 22, 2004. Without further corroborating evidence, the documents filed with the instant petition are not sufficient to overcome petitioner's burden of proof.

The petition is dismissed.

Of course, petitioner may submit Figure 4 in the form of an amendment for consideration by the examiner to determine whether Figure 4 contains new matter as compared to the original specification and drawings filed March 22, 2004. See 37 CFR 1.121.

The application is being directed to the Office of Initial Patent Examination for further processing and consideration of the other documents filed in response to the "Notice to File Missing Parts of Nonprovisional Application."

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Steven J. Winick	: DECISION ON REQUEST FOR
Patent Number	: 7651530	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1000** 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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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Wilhelmus Joseph Leonardus Suyker	: DECISION ON REQUEST FOR
Patent Number	: 7666198	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,714	: OF WYETH
Filed	: 03/22/2004	:
		:

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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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Arnd Paulsen	: DECISION ON REQUEST FOR
Patent Number	: 7573536	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,717	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1298** 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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BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Application of Benigni, et al. Application No. 10/805,724 Filed: March 22, 2004 Attorney Docket No. LD0283.DIV1	: : : : :	DECISION ON PETITION

This is a decision on the petition, filed June 15, 2004, requesting that the above-identified application be accorded a filing date of March 22, 2004.

Application papers in the above-identified application were filed on March 22, 2004. However, on June 7, 2004, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

The filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office. 37 U.S.C. 111(a)(4). However, it is the practice of the Office to treat an application for a composition as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113. MPEP 601.01(f). Petitioner is advised that in a situation in which the appropriate examining group later determines that drawings are necessary under 35 U.S.C. 113, the filing date issue will be reconsidered by the PTO.

A review of the original application papers filed March 22, 2004 reveals that they involve an application for a composition. Thus, the application, containing a specification and at least

one claim, was complete within the meaning of 37 C.F.R. 1.53(b), and entitled to a filing date of March 22, 2004.

Accordingly, the petition is **granted** to the extent that the application will be accorded the March 22, 2004 filing date with no drawings as a part of the original disclosure of the application.

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.

It is noted that the specification filed on March 22, 2004 describes drawings containing Figures 1 - 16, but no drawings were filed on March 22, 2004. Accordingly, it is concluded that the "Notice of Incomplete Application" mailed June 7, 2004, was mailed in error and is hereby **withdrawn**.

The preliminary amendment seeking entry of the drawings, submitted with the instant petition, will be considered by the examiner to determine if the drawings contain new matter.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

This application is being forwarded to the Office of Initial Patent Examination for further processing, including mailing of a filing receipt, with a filing date of March 22, 2004 and for information on the file wrapper label that "0" sheets of drawings were present on filing. Applicant will receive appropriate notifications regarding any missing items or fees owed (if any), and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Patricia Faison-Ball for

Charles Pearson
Director
Office of Petitions

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OFFICE OF PETITIONS

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of
Daniel Benigni, et al.
Application No. 10/805,724
Filed: March 22, 2004
Attorney Docket No. LD0283 DIV 1

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before October 25, 2006. A Notice of Abandonment was mailed on December 11, 2006. On December 13, 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 the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Patent No. 7,241,899	:	
Issued: July 10, 2007	:	
Application No. 10/805,724	:	PATENT TERM ADJUSTMENT
Filed: March 22, 2004	:	
Dkt. No.: LD0283 DIV 1	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 C.F.R. §§ 1.181 & 1.705," filed September 10, 2007. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,241,899 on July 10, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 169 days. Patentees argue that the patent is entitled to an adjustment of 310 days.

Patentees do not contest the adjustments totaling 517 days for Office delays. Patentees do not contest the reduction of seven days or two days.

Patentees contest the reduction of 120 days, arguing that the proper period of adjustment in connection with the substitute declaration submitted September 27, 2006 is 29 days on page one of the application for PTA and 28 days on page five of the application for PTA.

A review of the record reveals that the proper reduction under 37 CFR 1.704(c)(10) is 30 days. The reduction commenced September 27, 2006, the date the substitute declaration was filed, and ending October 26, 2006, the date the Office communication in response thereto was mailed.

Patentees further contest the reduction of 49 days in connection with the receipt of issue fee payment on December 13, 2006.

A review of the record reveals that the correct reduction in connection with the submission of the petition to revive and the issue fee payment on December 13, 2006 is 170 days. In accordance with 37 CFR 1.704(c)(3)(ii), the reduction began October 26, 2006 (the date of abandonment/day after the date that the issue fee was due) and ended April 13, 2007, the date that is four months after the date that a grantable petition to revive was filed.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 308 days (overall adjustment of 517 days for Office delays reduced 209 days for applicants' delays).

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

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 308 days.

Telephone inquiries specific to this matter may 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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,241,899 B2
DATED	:	July 10, 2007
INVENTOR(S)	:	Benigni, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 169 days

Delete the phrase "by 169 days" and insert – by 308 days--

Day : Thursday
Date: 5/29/2008

PALM INTRANET

Time: 14:16:12

PTA Calculations for Application: 10/805724			
Application Filing Date:	03/22/2004	PTO Delay (PTO):	517
Issue Date of Patent:	07/10/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	348
Post-Issue Petitions:	0	Total PTA (days):	308
PTO Delay Adjustment:	139		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	139		
61	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	417		
60	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		278	
59	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		139	
55.5	06/20/2007	PTA 36 MONTHS			
55	07/10/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	88		51
54	06/01/2007	EXPORT TO FINAL DATA CAPTURE			
53	05/31/2007	DISPATCH TO FDC			
52	05/30/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	12/13/2006	ISSUE FEE PAYMENT VERIFIED		49	37
50	05/24/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO ACCEPT DELAYED PAYMENT OF ISSUE FEE		170	37
49	12/13/2006	PETITION ENTERED			
48	12/13/2006	ISSUE FEE PAYMENT RECEIVED			
47	12/05/2006	FINISHED INITIAL DATA CAPTURE			
46	12/11/2006	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
45	12/11/2006	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
44	09/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	10/26/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
42	10/25/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
41	09/27/2006	SUPPLEMENTAL PAPERS - OATH OR		120	43

		DECLARATION			
40.7	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	43
40	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	09/18/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		7	43
38	07/28/2006	EXPORT TO INITIAL DATA CAPTURE			
37	07/25/2006	MAIL NOTICE OF ALLOWANCE	429		-1
36	07/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	07/21/2006	ISSUE REVISION COMPLETED			
34	07/21/2006	NOTICE OF ALLOWABILITY			
33	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	05/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
31	06/15/2004	PRELIMINARY AMENDMENT			
30	04/12/2004	REFERENCE CAPTURE ON IDS			
29	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	05/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/13/2006	APPLICATION RETURN FROM OIPE			
26	03/14/2006	APPLICATION IS NOW COMPLETE			
25	03/13/2006	APPLICATION RETURN TO OIPE			
24	03/13/2006	APPLICATION RETURN FROM OIPE			
23	03/13/2006	APPLICATION IS NOW COMPLETE			
22	06/15/2004	ADDITIONAL APPLICATION FILING FEES			
21	06/07/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
20	07/14/2004	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO FILING DATE			
19	06/15/2004	PETITION ENTERED			
18	06/29/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
17	06/29/2004	APPLICATION RETURN TO OIPE			
16	06/29/2004	APPLICATION RETURN FROM OIPE			
15	06/29/2004	APPLICATION IS NOW COMPLETE			
12	06/07/2004	NOTICE OF INCOMPLETE APPLICATION - FILING DATE NOT ASSIGNED			
11	06/07/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	06/07/2004	APPLICATION RETURN TO OIPE			

9	06/05/2004	APPLICATION RETURN FROM OIPE			
8	06/07/2004	APPLICATION IS NOW COMPLETE			
7	06/05/2004	APPLICATION RETURN TO OIPE			
6	06/05/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/07/2004	APPLICATION IS NOW COMPLETE			
4	04/16/2004	CLEARED BY OIPE CSR			
3	04/16/2004	CASE CLASSIFIED BY OIPE			
2	04/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/22/2004	INITIAL EXAM TEAM NN			

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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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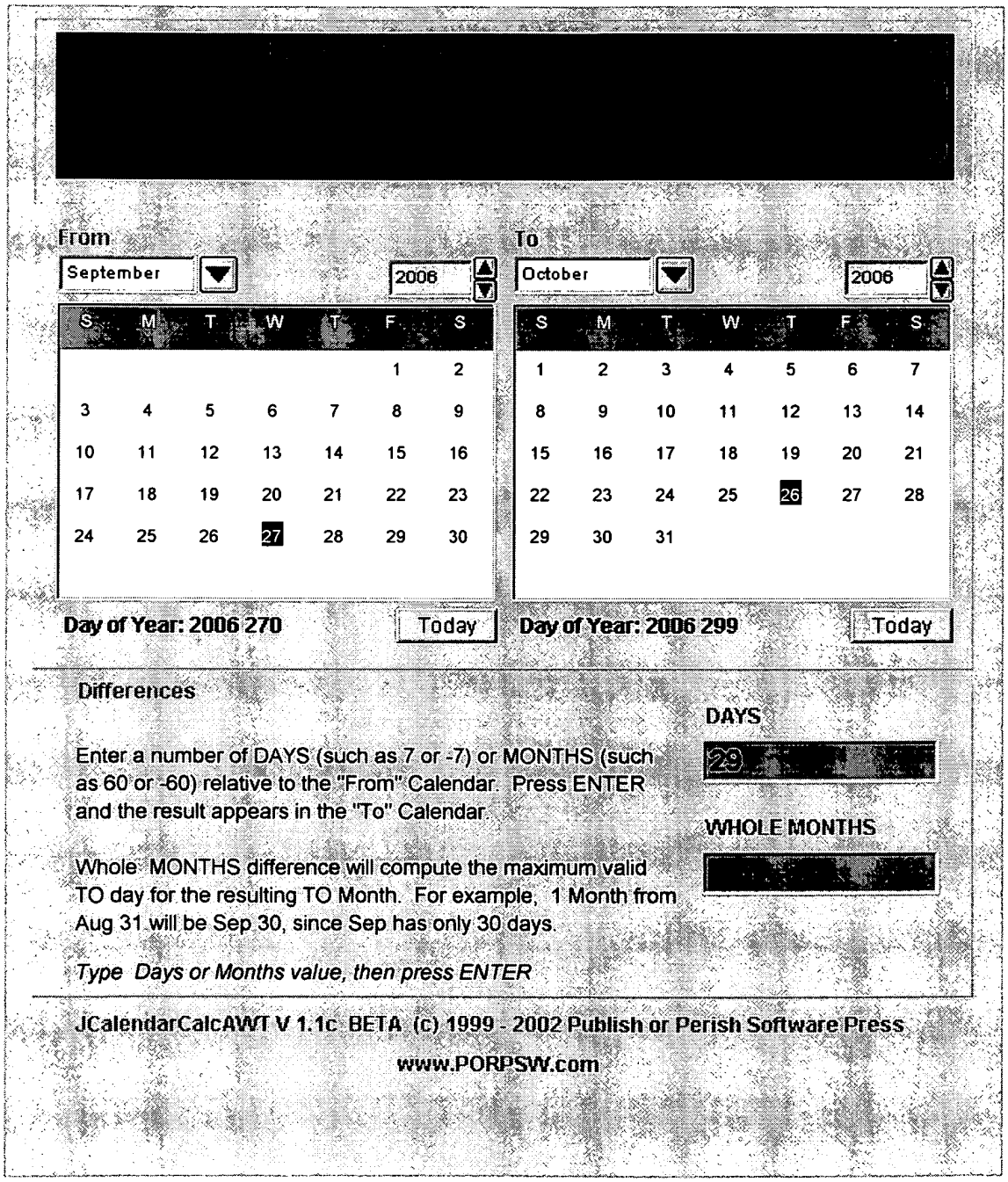

As time always moves forward, the Years, Months, Days breakdown is always computed from the lesser

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STETINA BRUNDA GARRED & BRUCKER
SUITE 250
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ALISO VIEJO CA 92656

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OFFICE OF PETITIONS

In re Application of	:	
Jensen	:	
Application No. 10/805,756	:	DECISION ON PETITION
Filed: March 22, 2004	:	TO WITHDRAW
Attorney Docket No. DJENS-001A	:	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, 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 Matthew A. Newboles on behalf of all attorneys of record who are associated with customer No. 007663.

All attorneys/agents associated with the Customer Number 007663 have been withdrawn.

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

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Dean Jensen
23851 Calle Hogar
Mission Viejo, CA 92691

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-22-08

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/805786** Patent No.: **7334407**

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.

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: _____

DEVON KRAMER
SUPERVISORY PATENT EXAMINER

8/26/08
SPE

3746
Art Unit

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MDRNA, Inc.
3830 MONTE VILLA PARKWAY
BOTHELL WA 98021-7266

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In re Application of :
Steven C. Quay, et. al. :
Application No. 10/805,788 : ON PETITION
Filed: March 22, 2004 :
Attorney Docket No. 03-04US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of March 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 29, 2008.

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

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

The 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.

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, the Request for Continued Examination (RCE) and fee of $405; (2) the petition fee of $810; 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 1654 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Peter J. Knudsen
999 Third Avenue, Ste. 3600
Seattle, WA 98104

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Andrew E. C. Merriam
Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Eric Gustave Lundquist	:	
Application No. 10/805,792	:	DECISION ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. A01041A	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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) was obtained. Accordingly, the date of abandonment of this application is September 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Appeal Brief; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1724 for appropriate action on the Notice of Appeal and concurrently filed Appeal Brief.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 2 2 2004

DCM

In re Application of James A. Masterson Serial Number: 10/805,799 Filed: March 22, 2004 For: METHOD & APPARATUS FOR SEPARATING AND NEUTRALIZING AMMONIA	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed March 22, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

ROBERT R. WATERS, ESQ.
WATERS LAW OFFICE, PLLC
633 SEVENTH STREET
HUNTINGTON WV 25701

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JAN 1 6 2005

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:
David Baulcombe et al	:
Serial No.: 10/805,804	: PETITION TO MAKE SPECIAL
Filed: March 22, 2004	:
Attorney Docket No.: 101044.53943D2	:

This is in response to the petition filed December 17, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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APR 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Bland, et al.	:	
Application No.: 10/805,815	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No.: 25096B	:	
For: METHOD FOR RECYCLING BUILDING	:	
MATERIALS	:	

This is a decision on the petition under 37 CFR 1.137(a), filed April 6, 2006, to revive the above-identified application. The petition will be treated under 37 CFR 1.181, as well.

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

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

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

The above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the Notice of Allowance and Fee(s) Due, mailed October 18, 2005, which set a period for reply of three (3) months. This application became abandoned on January 19, 2006. A Notice of Abandonment was mailed on March 22, 2006.

Petitioners assert that the issue fee and publication fees were timely submitted via facsimile on January 18, 2006, but the Office did not receive them. Petitioners state that an unnamed docket clerk mistakenly sent the document to the previous facsimile number for acceptance of issue fees. Therefore, the fees were not received by the Office. It had been assumed that the documents were successfully transmitted until receipt of the Notice of Abandonment, dated March 22, 2006.

Petitioners are advised that when the Office has no record of receiving a facsimile, a petitioner must prove that it was indeed filed. 37 CFR 1.8(b) requires that a petition be filed requesting that the correspondence be accorded a filing date as of the date the correspondence is shown to have been transmitted to and received in the Office.

The showing must include a copy of the previously transmitted correspondence with a certificate of transmission affixed thereto and a statement which attests on a personal knowledge basis to the previous timely transmission. If the correspondence was sent by facsimile, a copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

As a preliminary matter, petitioners are informed that it is permissible to transmit the issue fee and publication fee to Publications Division directly at (703) 746-4000, which is the facsimile number used on January 18, 2006. MPEP 502.01 I B(3)

The showing of record does not merit withdrawing the holding of abandonment because the transmission was not completed. The sending unit's report contains an error message that states that there was no answer at the facsimile number and the transmission failed. The sending unit's report confirms that transmission was not timely completed. Thus, Rule 1.8 cannot be relied upon to obtain withdrawal of the holding of abandonment. The petition under 37 CFR 1.181 is dismissed.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and

> reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioners' evidence shows that it was **not** unforseeable that the January 18, 2006 transmission failed. The sending unit's report shows that the two page facsimile transmitted to 703 746-4000 was not successful. Therefore, on January 18, 2006, only a few minutes after the attempted transmission, petitioners were on notice that it was not successful. A reasonable and prudent person would have reviewed the transmission report to verify successful transmission and when the transmission failure was discovered, would have taken other steps to submit the fees timely.

The petition under 37 CFR 1.137(a) is dismissed.

ALTERNATE VENUE

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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

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

E. Shirene Willis
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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OFFICE OF PETITIONS

In re Application of	:	
Bland, et al.	:	
Application No.: 10/805,815	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No.: 25096B	:	
For: METHOD FOR RECYCLING BUILDING	:	
MATERIALS	:	

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

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

The above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the Notice of Allowance and Fee(s) Due, mailed October 18, 2005, which set a period for reply of three (3) months. This application became abandoned on January 19, 2006. A Notice of Abandonment was mailed on March 22, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 18, 2005 Notice of Allowance and Fee(s) Due, and the petition fee. Therefore, the petition is **granted**.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JOHN S. PRATT, ESQ.
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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In re Application of
Makoto Yamamoto et al
Application No. 10/805,822
Filed: March 22, 2004
Attorney Docket No. 44471/298721

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

This is a decision on the petition, filed August 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 May 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2815 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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Baker Botts L.L.P.
2001 Ross Avenue
Suite 600
Dallas TX 75201-2980

MAY 16 2008

In re Application of: Yokouchi
Attorney Docket Number: 073338.0494
Application No. 10/805,825
Filed: March 23, 2004

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and the Notice of Allowability mailed January 25 and January 30, 2008 respectively, are hereby vacated. The application is being withdrawn to permit reopening of prosecution. The reasons therefore 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 Rodney Bovernick at (571) 272-2344.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

for Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OCT 0 5 2004

TECHNOLOGY CENTER 3600

KLEIN, O'NEILL & SINGH
2 PARK PLAZA
SUITE 510
IRVINE, CA 92614

In re application of	:	**DECISION ON PETITION**
Hector M. Solis et al.	:	**TO MAKE SPECIAL**
Application No. 10/805,827	:	**(APPLICANT'S AGE)**
Filed: March 22, 2004	:	
For: GUIDE AND BRAKE SYSTEM FOR WIRE REEL TERMINAL HOLDER		

This is a decision on the petition submitted on August 23, 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 signed declaration and passport of Mr. Solis indicating that he is at least 65 years of age.

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

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

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

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

KJD/slb: 9/28/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/17/07

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/805835** Patent No.: **7241080**

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.

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

Comments:

Does not affect scope of claims, corrects spec typo.

Ex Dillon

Gene Collins

SPE

3651
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

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In re Patent No. 6,995,560 :
Issue Date: February 7, 2006 :
Application No. 10/805,841 : NOTICE
Filed: March 22, 2004 :
Attorney Docket No. 200512.00005 :

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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KAREN G. KAISER
NATIONAL STARCH AND CHEMICAL COMPANY
P.O. BOX 6500
BRIDGEWATER, NJ 08807-0500

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In re Application of	:	
Valerie BONNARDEL, et al	:	
Application No. 10/805,857	:	DECISION ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. 3076.PC	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; 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 1617 for appropriate action by the Examiner in the normal course of business on the reply received April 24, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DONALD F. HAAS
SHELL OIL COMPANY
LEGAL-INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:	
James Gao Lee et al	:	
Application No. 10/805,866	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. TH1712 02 (US)	:	

This is a decision on the petition under 37 CFR 1.78, filed October 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition 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.

Along with the instant petition under 37 CFR 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on March 22, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter and in the declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority

under 37 CFR 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter and in the declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $130.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Wan Laymon at (571) 272-3220.

This application is being forwarded to the Examiner of Technology Center AU 1711 for appropriate action on the amendment filed October 22, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) and the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed applications.

Frances Hicks

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

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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RICHARD A. KOSKE
FLUKE CORPORATION
P.O. BOX 9090
EVERETT, WA 99806-9090

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bruce T. White :
Application No. 10/805,874 :
Filed: March 22, 2004 :
Attorney Docket No. 0758 US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, 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 January 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 14, 2005.

The Associate Power of Attorney filed on May 27, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the name of the patent practitioner listed on the Associate Power of Attorney has **not** been made of record.[1]

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

This matter is being referred to Publishing Division.

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

cc: DELLETT AND WALTERS
P.O. BOX 2786
PORTLAND, OR 97208-2786

---

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

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ROSHARON TX 77583

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OFFICE OF PETITIONS

In re Application of	:	
Ahmed et al.	:	DECISION ON
Application No.: 10/805,897	:	
Filing Date: March 22, 2004	:	PETITION UNDER
Docket No.: 68.0274CNT (SHL.0231C1US)	:	
For: Field Weldable Connections	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on July 7, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed September 2, 2005, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on March 2, 2006. A Notice of Abandonment was mailed on March 31, 2006.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement that "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." Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 3672 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

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

Mail Date: 04/21/2010

Applicant	: Mark H. Falahee	: DECISION ON REQUEST FOR
Patent Number	: 7588589	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/805,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **972** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

In re application of David S. Breed et al. Application No. 10/805,903 Filed: March 22, 2004 For: TELEMATICS SYSTEM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 14, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a passport indicating Mr. Breed is at least 65 years of age.

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

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

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

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

KJD/slb: 09/12/05

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SEVENTH FLOOR, KALAMAOO BLDG.
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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OFFICE OF PETITIONS

In re Application of	:	
Jean Deregnaucourt et al	:	
Application No. 10/805,940	:	DECISION GRANTING PETITION
Filed: March 22, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. PF114CIP	:	

This is a decision on the petition filed August 12, 2005, which is being treated as a petition under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign France Application No. PCT/FR04/00347, filed February 16, 2004.

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

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

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application

---

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

or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on March 22, 2004, which is after November 29, 2000 and within 12 months of February 16, 2004 (the filing date of the foreign application to which benefit is now being claimed). On August 12, 2005, an application data sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition.

Since the unintentional statement contained in the instant petition varies from the language required, the statement contained in the instant petition is being construed as the statement required and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 1616 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

ATTACHMENT: Filing Receipt

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LUCAS & MERCHANTI, LLP
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15TH FLOOR
NEW YORK NY 10016

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Tatsuya Nagase et al	:	
Application No. 10/805,956	:	
Filed: March 22, 2004	:	
Attorney Docket No. KOY-32	:	

This is a decision on the petition, filed November 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 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) 272-3208.

The examiner of Technology Center AU 1756 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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Patent Docket Department
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 06/03/2010

Applicant	: Walter Szrek	: DECISION ON REQUEST FOR
Patent Number	: 7627497	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/805,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1206** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA
SUITE 700
HOUSTON, TX 77057

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OFFICE OF PETITIONS

In re Application of
Gaston, Mathiszik, and Rehbock
Application No. 10/806,009
Filed: March 22, 2004
Attorney Docket No. 414-35351-US
For: Use of Pattern Recognition in a Measurement of Formation Transit Time for Seismic Checkshots

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 1, 2004.

The petition is **granted**.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Hans Rehbock
Letchenweg 6
29342 Wienhausen
GERMANY

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OFFICE OF PETITIONS

Letter

In re Application of
Gaston, Mathiszik, and Rehbock
Application No. 10/806,009
Filed: March 22, 2004
Attorney Docket No. 414-35351-US
For: Use of Pattern Recognition in a Measurement of Formation Transit Time for Seismic Checkshots

Mr. Rehbock:

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA
SUITE 700
HOUSTON, TX 77057

09-06-05

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PATENT & TRADEMARK OFFICE

PATENT
Attorney's Docket No. 3521.171D

ART UNIT: 1752

EXAMINER: Unassigned

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
SOMIT TALWAR et. al

Serial No.: 10/806,014

Filed: March 22, 2004

A.U. 1725
Examiner: Johnson, J

For: LASER SCANNING APPARATUS AND METHODS FOR THERMAL PROCESSING

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

SIR:

EXPRESS MAIL CERTIFICATE

I hereby certify that this paper, and the listed enclosures, and fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with the Express Mail Label No. EV484314673US on September 2, 2005.

Allston L. Jones, Attorney for Applicant

TRANSMITTAL LETTER

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 SEP 26 2005

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CHARLOTTE NC 28211

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OFFICE OF PETITIONS

In re Application of	:	
Kellerman	:	
Application No. 10/806,033	:	DECISION ON PETITION
Filed: March 22, 2004	:	TO WITHDRAW
Attorney Docket No. 3978	:	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 24, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "we no longer represent this client", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Ronald L. Hofer
122 Lindbergh Lane
Mooresville, NC 28117

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Paper No: __

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OFFICE OF PETITIONS

RICHARD D. MULTER
LAW OFFICE OF RICHARD D. MULTER
P.O. BOX 2384
SHELTON WA 98584

In re Application of	:	
Janssen, et al.	:	
Application No. 10/806,039	:	DECISION
Filing Date: 22 March 2004	:	
Attorney Docket No.: 20012-11	:	

This is a decision on the petition filed on5 December, 2005, alleging unintentional delay and seeking revival under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the petition was received by the attorneys in the Office of Petitions only as of this writing

NOTES:

Monitoring of the status of applications on Private PAIR and charges or lack thereof to one's deposit account can inform one's management of application responses and provide an indication when mailings of Office actions should be expected and/or if transactions have occurred.

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 because regulatory requirements require the filing of such a petition within two (2) months of the act complained of.

For the reasons set forth below, the petition 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 Restriction Requirement mailed on 24 February, 2005, with reply due absent extension of time on or before 24 March, 2005;
- on 19 May, 2005, Petitioner filed a reply in the form of an Election, however the reply was untimely in that Petitioner submitted a request and fee for an insufficient extension of time (one month rather than two months) and did not authorize required fees be charged against a deposit account;
- the Office mailed a Notice of Additional Fee Due on 17 October, 2005;
- the application went abandoned by operation of law after midnight, 24 April, 2005;
- the Office mailed a Notice of Abandonment on 1 November, 2005;
- with the instant petition and fee, Petitioner pointed to the late-filed Election and made the statement of unintentional delay.

Petitioner is cautioned always to review and note the shortened statutory period (SSP) set by the Examiner or other Office official and to ensure that appropriate extensions of time, if and when available, are properly computed.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

---

and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

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

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[7]

As to the Allegations
of Unintentional Delay

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

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the

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

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

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

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is

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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disagreement or doubt.

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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND TX 77406-1247

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JUN 23 2008

OFFICE OF PETITIONS

In re Patent No. 6,975,121 :
Issue Date: December 13, 2005 :
Application No. 10/806,046 :
Filed: March 22, 2004 :
Attorney Docket No. KJT-04-01 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees 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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Holger Richert	: DECISION ON REQUEST FOR
Patent Number	: 7638173	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/806,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **616** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61 STREET
NEW YORK NY 10023

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OCT 28 2008

OFFICE OF PETITIONS

In re Patent No. 7,365,204
Application No. 10/806,061
Filed: March 22, 2004
Issued: April 29, 2008
Attorney Docket No. U 015095-2

ON PETITION

This is a decision on the petition filed May 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter 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 Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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
Charles L. Gagnebin III
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/806070 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

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Director's Office
Group 3700

James A. Retter
Ware, Fressola, Van Der Sluys & Adolphson, LLP
755 Main Street, P. O. Box 224
Monroe, CT 06468-0224

In re Application of
Dang, Thang Q.
Serial No. : 10/806,076
Filed : March 22, 2004
For : **DIAPHRAGM MOUNTING METHOD FOR A DIAPHRAGM PUMP**

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)

This is a decision on the petition under C.F.R. § 1.102(d) filed April 15, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

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

The petition filed April 15, 2005, includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
rt/ 9/8/05

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APR 14 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 "PETITION UNDER SECTION 37 CFR 1.47," filed on March 12, 2009, which is treated as 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]

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

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

[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.

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.

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 subject 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.

At the outset, although the petition paper filed on March 12, 2009,[2] states that it is signed by an officer of the assignee of record, petitioners have not provided the statement in accordance with 37 CFR 3.73(b). Further, the name of the assignee corporation has not been provided.

37 CFR 1.33(b) requires that papers filed in an application must be signed by (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by the sole inventor, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

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[2] A petition styled under 37 CFR 1.47, properly signed by petitioner's registered patent practitioner, was filed on April 14, 2008.

Petitioners state that the declaration was sent by email to the non-signing inventor, but that no response was received. Petitioners further state that the inventor was contacted by telephone, and that her email address was confirmed.

The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

In this regard, a copy of the declaration under 37 CFR 1.131 should be sent to the **last known address** of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.[3]

Petitioner must further present proof that the inventor refuses to sign the declaration under 37 CFR 1.131. If there is a written refusal, a copy of that written refusal must be provided 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 facts.

In this regard, it is noted that the affidavit of petitioner's registered patent practitioner, Timothy A. Cassidy, states that the non-signing inventor was contacted by telephone by Scott Manley. A statement of facts by Scott Manley, the person with first-hand knowledge of the conversations, should be included, describing the conversations with the non-signing inventor.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) has refused to sign the declaration under 37 CFR 1.131.

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[3] MPEP 409.03(d)(II).

Still further, petitioner must provide proof that the putative assignee has sufficient proprietary interest in the subject matter to justify filing of the application.[4]

In this respect, while a review of Office assignment records show that this application has been assigned to Safety Components Fabric Technologies, Inc., it is unclear whether the person signing the declaration under 37 CFR 1.131 has signed on behalf of the above-named assignee. The renewed petition must state the name of the assignee as well as the name and title of the corporate officer signing on behalf of the assignee.

In this regard, the name of the assignee is not provided, simply that the signer, Mr. Russell M. Robinson, III, is Vice President and Secretary. If he is Vice President and Secretary of named assignee Safety Components Fabric Technologies, Inc., the declaration under 37 CFR 1.131 should so state.

If Mr. Robinson is Vice President and Secretary of a different assignee or party signing on behalf of the non-signing inventor, that party must provide proof of sufficient proprietary interest to sign on behalf of the non-signing inventor.[5]

Lastly, it is noted that $130.00 was submitted on April 14, 2008 as the petition fee. The fee for a petition under 37 CFR 1.183, however, is $400.00. The balance due of $270.00 must be submitted with any renewed petition.

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

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

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

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

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[4] MPEP 409.03(f).

[5] See MPEP 409.03(f).

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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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.

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[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.

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
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GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Claire B. Bass	: DECISION ON REQUEST FOR
Patent Number	: 7635145	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/806,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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TECHNOLOGY CENTER 2600

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

In re Application of :
Tomonori Soeda, et al. :
Application No. 10/806,098 :
Filed: March 23, 2004 :
For: **DISK ARRAY DEVICE AND DISK ARRAY DEVICE CABLE SUPPORT METHOD** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 6, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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

In re Application of: YAMAMOTO, et al.
Application No. 10/806,099
Filed: March 23, 2004
For: CONFIGURATION MANAGEMENT APPARATUS 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 06 June 2005 and supplemented by the further submission of 13 June 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

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

The petition filed 06 June 2005 and supplemented on 13 June 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references.

The petition identifies a feature of each independent claim (i.e., a first feature of independent claim 1, . . ., a ninth feature of independent claim 20). However, in identifying this feature, the discussion states that the references "fail to disclose or suggest [the identified feature] *in combination* with the other limitations recited in the claims" (emphasis added). It is also stated in the discussion of each reference that the reference "does not disclose or suggest" the identified feature for each independent claim "*in combination* with the other limitations recited in each of the independent claims" (emphasis added). In effect, this statement indicates that the *entirety* of the nine independent claims is not disclosed by the ten references purported to be most closely related. Such a statement is not a sufficient detailed description. Applicants may wish to consider deleting the portions of the discussion that indicate that the identified features *in combination* with the other limitations are not disclosed by the references. Also, it is suggested that if the identical statement is being made to distinguish each reference from the claims, as in the supplemental petition, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

The discussion also states that, for each of the ten references deemed most closely related, the reference fails to disclose a "third step for preparing a cache allocation definition of a logical volume of said second storage . . . said second storage device has." However, it is unclear what is intended by the discussion of this particular feature when this feature does not even appear in most of the independent claims. (The feature is recited *verbatim* in claims 1 and 10. However, in claims 6, 9, 10, 11, 16, 19, and 20, it is recited with some variations, and in claim 5, it is recited with substantial variation.)

Finally, on page 7, the discussion states that "although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their interoperation provides a novel storage system and system and method related to or implemented in or by said storage system not taught or suggested by any of the references of record." However, it is not clear what is intended by this statement. The statement fails to explain why "the distinguishing feature(s) may represent a substantial portion of the claimed invention".

Petition to Make Special **DISMISSED**.

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

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

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

ds

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of: Yamamoto, et al.
Application No. 10/806,099
Filed: March 23, 2004
For: CONFIGURATION MANAGEMENT APPARATUS AND METHOD

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

This is a decision on the Request for Reconsideration filed August 30, 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on June 6, 2005, supplemented on June 13, 2005 and dismissed on July 13, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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APR 07 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Hiroshi Ogasawara, et al.
Application No. 10/806,128
Filed: March 23, 2004
For: **DISK ARRAY SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed February 1, 2005 and supplemented on February 25, 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.

A review of the file record finds that one page of the petition filed February 5, 2005 was unsigned; however, taken together with the page showing petitioner's signature filed on February 25, 2005, the petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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KLARQUIST SPARKMAN, LLP
One World Trade Center
121 S.W. Salmon Street
Suite 1600
Portland, OR 97204

MAIL

JUL 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:	)
Carrel W. Ewing et al.	) DECISION ON PETITION TO MAKE
Application No.: 10/806,130	) SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: March 23, 2004	) AND MPEP § 708.02 (IV):
For: REMOTE POWER CONTROL SYSTEM	) APPLICANT'S AGE

This is a decision on the petition, filed February 27, 2005, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes declaration by Carrel W. Ewing; one of the applicants, asserting that declarant/applicant is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution and to consider the change of inventorship.

Michelle R. Edwards for

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

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121 SW SALMON STREET
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PORTLAND, OR 97204

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of
Carrell W. Ewing, et al.
Application No. 10/806,130
Filed: March 23, 2004
Attorney Docket No. 40026XY

: 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 July 1, 2005, and supplement thereto filed August 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the substitute amendment filed December 19, 2006.

The petition is **GRANTED**.

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

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

It is noted that a substitute amendment was filed on December 19, 2006, since the amendment filed July 1, 2005 improperly incorporates by reference the prior application. Accordingly, all of the above requirements have been satisfied. The late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

Although a decision on the petition under 37 CFR 1.78(a)(3) had not yet been decided, it is noted that the Examiner has already considered the claim for benefit of the priority, as noted by his initial on the BIB sheet for this application. Therefore, as no further action is seen to be required in this matter, this application will proceed to issue on January 9, 2007.

Telephone inquires related to this decision should be directed to Sherry D. Brinkley 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

Karen Cressy for
Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 04/23/2010

Applicant	: L. Lloyd Williams	: DECISION ON REQUEST FOR
Patent Number	: 7636431	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/806,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **905** 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 : 01/06/09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10806160 Patent No.: 7494741

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

1795

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WASHINGTON, DC 20005

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Bernd Bartenbach, et. al.	:	
Application No. 10/806,191	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 54396	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 9, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed January 9, 2007. A Notice of Abandonment was mailed on August 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney, Correspondence Address Indication and Statement under 37 CFR 3.73(b) has been accepted. A Notice of Acceptance accompanies this decision.

This application file is being referred to Technology Center Art Unit 1764 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/806,191	03/23/2004	Bernd Bartenbach	54396

CONFIRMATION NO. 2016

POA ACCEPTANCE LETTER

26474
NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

OC000000030555762

Date Mailed: 06/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,191	03/23/2004	Bernd Bartenbach	54396	2016

26474 7590 12/03/2008
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WASHINGTON, DC 20005

EXAMINER
BOYER, RANDY

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
12/03/2008	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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Mailed: 12-03-08

In re application of	:	
Bartenbach et al.	:	DECISION ON
Serial No. 10/806,191	:	PETITION
Filed: March 3, 2004	:	
For: PROCESS FOR CARRYING OUT A HIGH-TEMPERATURE REACTION, REACTOR FOR CARRYING OUT THE PROCESS, PROCESS FOR THE SCALE-UP OF A REACTOR, AND USE	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 to withdraw finality of the office action mailed September 5, 2008.

On January 9, 2007, a first office action was mailed to applicants, containing various grounds of rejection. Applicants responded to this office action with a response filed on November 9, 2007. A final rejection was then mailed September 5, 2008.

On September 25, 2008, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the September 5, 2008 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection applied in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action
Due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice. Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in

an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that because Toombs (US 6,349,678) is a newly cited reference used to reject a limitation in claim 21 that was previously rejected with another reference (i.e. Gravley (US 4,765,964), the new grounds of rejection were not necessitated by Applicant's amendments to the claims. Note that the limitation of claim 21 comes from previously rejected claim 20. Claim 20 was divided into claims 20 and 21. This argument is persuasive. Therefore, the new ground of rejection over claim 21 was not necessitated by Applicant's amendment.

Because the rejection of claim 21 over newly cited prior art was not necessitated by Applicant's amendments to the claims, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

/JACQUELINE STONE/

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

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10806191	3/23/04	BARTENBACH ET AL.	54396

EXAMINER
GLENN A. CALDAROLA

ART UNIT	PAPER
1797	20081203

DATE MAILED:

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

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

Commissioner for Patents

Applicant petition under 1.181 to withdraw the finality of the office action dated 9/5/2008 is persuasive. The period for response continues to run 3 months from the date of the last office action dated 9/5/2008.

/Glenn A Caldarola/
Acting SPE of Art Unit 1797

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LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

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JUL 24 2008

In re Application of Depke et al.	:	
Application No. 10/806,201	:	Decision on Petition
Filing Date: March 22, 2004	:	
Attorney Docket No. 092970.0002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 10, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 11, 2007. A Notice of Abandonment was mailed on March 17, 2008.

The instant petition requests revival of the application. Petitioner has submitted the required petition fee of $770. Petitioner has submitted a reply to the final Office action in the form of a RCE and submission. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 2188 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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TECHNOLOGY CENTER 2600

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

In re Application of
Hideki MATSUDA
Application No. 10/806207
Filed: March 23, 2004
Attorney Docket No. 119170

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 January 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) 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);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

SPE: M. Carter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/07

TO SPE OF : ART UNIT 3722

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/806,216 Patent No.: 6997774

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: _____

Monica S Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER

_____ 3722 2/20/07
SPE **Art Unit**

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.
10/806,229	03/23/2004	Kenta Kojima	250624US3X	9660

22850 7590 09/08/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LAUX, JESSICA L

ART UNIT	PAPER NUMBER
3635	

NOTIFICATION DATE	DELIVERY MODE
09/08/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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SEP 05 2008

TECHNOLOGY CENTER 3600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re application of
Kenta Kojima, et al.
Application No. 10/806,229
Filed: March 23, 2004
For: **FLOOR STRUCTURE OF CONSTRUCTION MACHINE AND METHOD OF ASSEMBLING THE SAME**
DOCKET NO: 250624US3X

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition, filed January 24, 2008, under 37 CFR §1.181, invoking supervisory authority to require the Examiner to consider Japanese publication 2003-49452 cited in the Information Disclosure Statement filed on November 12, 2004. Petitioner requests the issuance of another Office action, which fully considers the Japanese publication 2003-49452 cited in the Information Disclosure Statement filed on November 12, 2004.

The petition is **DISMISSED as moot**.

A review of the file record reveals that a Supplemental Notice of Allowabilty was mailed on February 8, 2008, which included a notification that Japanese publication 2003-49452 had been considered.

SUMMARY: PETITION DISSMISSED

Any questions regarding this letter should be directed to Richard Chilcot at (571) 272-6777.

Kathy Matecki

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

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph Rogozinski	:	DECISION ON PETITION
Application No. 10/806,231	:	
Filed: March 23, 2004	:	
Attorney Docket No. 1231ROG-US	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 16, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on June 4, 2004, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time for response. Accordingly, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

In the present petition, petitioner's agent, David Klein states that he is a solo practitioner without the assistance of a secretary. Mr. Klein indicates that he did not realize the application became abandoned until after he received the Notice of Abandonment. After an investigation of the matter, Mr. Klein determined that the Notice to File Corrected Application Papers arrived at his office in Israel by mail on or about June 21, 2004. Mr. Klein explains that on June 21, 2004, his daughter was struck and killed by an automobile. Mr. Klein asserts that due to this tragedy, the Notice to File Corrected Application Papers was overlooked and no response was sent.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. 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(l);

(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 unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph,

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[1] 35 U.S.C. § 133.

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

facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Initially, the Office extends its sympathy to the agent's family for the loss of their daughter. However, the showing required under 37 CFR 1.137(a) is extremely exacting. Mr. Klein acknowledges that the tragedy took precedence over prosecuting the application. Such a delay is not "unavoidable" within the meaning of 37 CFR 1.137(a). It is certainly understandable how the passing of a family member impacts an individual. However, the delay in taking action in the above-identified application constitutes a preoccupation with other matters, which does not form the basis of unavoidable delay.[4]

It is unclear from the petition if Mr. Klein is asserting that due to the tragedy, he was incapacitated to such a degree as to render him unable to conduct business from the due date for the reply until the filing of a grantable petition. A showing of "unavoidable" delay based on incapacitation must establish that Mr. Klein's incapacitation was of such a nature and degree as to render him unable to conduct business (*e.g.* correspond with the USPTO) during the entire relevant time period. Furthermore, to establish a showing of incapacitation, Mr. Klein must submit a statement from a treating medical professional and any medical records, which describe the nature and degree of the incapacitation during the aforementioned period.

Lastly, Mr. Klein has failed to show what steps, if any, he took after the tragedy to seek the assistance of another registered patent agent or attorney to ensure the timely filing of a response with the USPTO.

CONCLUSION

Petitioner has not provided a sufficient 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.

Accordingly, the petition must be **dismissed**.

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

Alternative *Venue*

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. 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 as set forth in 1.17(m); (3) a statement that the entire delay in filing the

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

[4] See Smith v. Mossinghoff, 671 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

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 as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Joseph Rogozinski
Application No. 10/806,231
Filed: March 23, 2004
Attorney Docket No. 1231ROG-US

ON PETITION

This is a decision on the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on August 17, 2005.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on June 4, 2004, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time for response. Accordingly, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

On March 16, 2005, petitioner filed a petition under 37 CFR 1.137(a) with the requisite petition fee, which was dismissed for failing to show that the entire period of delay was unavoidable. On August 17, 2005, petitioner filed to present petition for revival of the above-identified application. However, petitioner indicated the he paid a $250.00 petition fee for filing the petition under 37 CFR 1.137(a) on March 16, 2005. Petitioner stated that the "[t]otal fee owed is thus $750.00 - $250 = $500." In accordance with petitioner's instruction, the USPTO mistakenly applied the $250.00 petition fee paid on March 16, 2005, for filing the petition under 37 CFR 1.137(a), towards the $750.00 petition fee owed for filing the present petition.

The Office reminds petitioner that 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 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; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d). However, petitioner did not submit the entire amount of $750.00 on filing the present petition under 37 CFR 1.137(b).

Pursuant to 35 U.S.C. 41(a) (7), the Director shall charge the petition fee set forth in 37 CFR 1.17(m) on filing a petition for the revival of an unintentionally abandoned application. Unless the circumstances warrant the withdrawal of the holding of abandonment (*i.e.*, it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a **statutory prerequisite to revival of the abandoned application**, and cannot be waived. Furthermore, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee **is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137**. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Thus, the Office: (1) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (2) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

On March 16, 2005, petitioner was required to pay the $250.00 petition fee on filing the petition under 37 CFR 1.137(a) as a statutory prerequisite to revival of the abandoned application. Moreover, petitioner is not entitled to apply the $250.00 petition fee towards the $750.00 petition fee required on filing the present petition because the Office will not refund the $250.00 fee regardless of the fact that the petition under 37 CFR 1.137(a) was dismissed. Accordingly, the Office will not reach the merits of the present petition until petitioner submit both a "Renewed Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," and the outstanding balance of $250.00 for filing the petition under 37 CFR 1.137(b) within **TWO (2) MONTHS** of the mailing date of this decision. No extensions of time are permissible.

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

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OFFICE OF PETITIONS

In re Application of
Joseph Rogozinski
Application No. 10/806,231
Filed: March 23, 2004
Attorney Docket No. 1231ROG-US

ON PETITION

This is a decision on the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on October 26, 2005.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on June 4, 2004, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time for response. Accordingly, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of substitute specification, paid the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1300 EYE STREET NW
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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Bartenbach et al.	:	
Application No. 10/806,232	:	DECISION ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 54395	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 1700 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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DAMIAN G. WASSERBAUER, ESQ.
INTELLECTUAL PROPERTY ADVISORS LLC
PO BOX 156
CANTON CT 06019

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OFFICE OF PETITIONS

In re Application of	:	
Russ Markhovsky	:	
Application No. 10/806,242	:	ON PETITION
Filed: 24 March, 2004	:	
Atty Docket No. RM-1001	:	

This is a communication in reference to the letter styled as a petition, filed on 29 August, 2005, concerning benefit claims in the above-identified application, which is treated as a petition under 37 CFR 1.181.

The petition is **dismissed**.

On 24 February, 2004, the application was filed. The original application papers included a "Request for Filing a Continuation or Division of an International Application" stating that this application was a continuation of "PCT 2004 00542" filed on 24 February, 2004.

On 6 August, 2004, a Filing Receipt was mailed, indicating this application was a continuation of PCT/US04/00542 filed on 12 January, 2004, and that the data provided by applicant is not consistent with PTO records.

On 5 October, 2004, petitioner filed a paper entitled "Petition to Correct PCT Priority Date", and on 29 August, 2005, the present petition was filed, whereby petitioner requests correction of the priority data. Specifically, petitioner requests a priority date of 23 February, 2003.

A review of Office PCT records indicates that application No. PCT/US04/00542 does not have a common inventor with the present application, and therefore the present application cannot claim

the benefit of said prior-filed application.[1] Further, it is noted that applicant "Transmittal Letter to the United States Receiving Office" filed on 24 March, 2004, listed Application No. PCT/US04/05422, filed on 24 February, 2004, and provisional Application No. 60/449,702, filed on 23 February, 2003, on the application transmittal letter for the present application, as applications containing subject matter disclosed in the international application.

As such, it appears that petitioner desires to claim the benefit of Application No. PCT/US04/05422, filed on 24 February, 2004, and Application No. 60/449,702, filed on 23 February, 2003, but inadvertently stated on the transmittal letter that the present application was a continuation of Application No. PCT/US04/00542. However, no claim of benefit to PCT/US04/05422, filed on 24 February, 2004, and Application No. 60/449,702, filed on 23 February, 2003, has been filed in an Application Data Sheet (ADS), or in the specification, or an amendment thereto, to date.

37 CFR 1.78 states:

> (a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:
> (i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or
> (ii) Complete as set forth in § 1.51(b); or
> (iii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and include the basic filing fee set forth in § 1.16; or
> (iv) Entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(f).
> (2) (i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by

[1] See 37 CFR 1.78(a)(1).

application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

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

(A) An application for a design patent;

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

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

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

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

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

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

(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.
(4) A nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim an invention disclosed in one or more prior-filed provisional applications. In order for an application to claim the benefit of one or more prior filed provisional applications, each prior-filed provisional application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(k) must be paid within the time period set forth in § 1.53(g).
(5) (i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).
(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:
(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.
(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.
(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the

translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C.119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

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

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(b) Where two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application.

(c) If an application or a patent under reexamination and at least one other application naming different inventors are owned by the same party and contain conflicting claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, the Office may require the assignee to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, and, if not, indicate which named inventor is the prior inventor.

As the references required by 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) was not properly and timely filed, a petition under 37 CFR 1.78(a)(3) and (a)(6), accompanied by the surcharge set forth in 37 CFR 1.17(t), is required to accept the unintentionally delayed claims for benefit under 35 U.S.C. §§ 365(c) and 119(e).

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 18 2006

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:
David C. Baulcombe et al	:
Serial No.: 10/806,253	: PETITION TO MAKE SPECIAL
Filed: March 22, 2004	:
Attorney Docket No.: 101044.53943D1	:

This is in response to the petition filed March 30, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 300
1700 Diagonal Road
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Kazuhiro Shimawaki :
Application No.: 10/806,257 :
Filed: March 23, 2004 :
Attorney Docket No.: 4468-012A :

ON PETITION

This a decision on the petition filed October 14, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on March 23, 2004. On September 17, 2004, the Initial Patent Examination Division mailed a "Notice of Omitted Items in Non-provisional Application" indicating that the application had been accorded a filing date, but that pages 15-27 of the specification appeared to have been omitted. The notice allowed a non-extendable period for reply of two-months from its mailing date. The instant petition was filed on October 14, 2004, wherein petitioner argued that pages 15-27 of the specification should be considered present on filing because the subject application incorporated by reference the entirety of the prior-filed application 09/712,844.

In view of the incorporation by reference statement found in the first paragraph of the specification, the application will retain the filing date of March 23, 2004, with pages 15-27 of the specification as part of the original disclosure. The examiner assigned to this application will be expected to consider the preliminary amendment and compare pages 15-27 of the specification as filed with the instant petition with pages 15-27 as contained in application 09/712,844 to be sure application 10/806,257 does not contain new matter.

A petition fee of $130.00 will be charged to deposit account 07-1337. Section 601.01(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that "[t]he petition fee(required by 37 CFR 1.53(e)) will be refunded if it is determined that the page(s) were in fact received by USPTO with the application papers deposited on filing." While petitioner has received the benefit of the incorporation by reference statement, petitioner has not established that the omitted pages were deposited with the application papers on March 23, 2004. The Office date-stamped postcard does not properly itemize the number of pages of specification filed with the subject application and does not properly itemize the number of pages of specification included in the copy of the prior-filed application that was also filed. Without such an itemization, is not possible to determine what was encompassed in the specification of application 10/806,257 or the specification of application 09/712,844. Accordingly, the petition fee of $130.00 will be charged as it cannot be determined whether pages 15-17 of the specification accompanied the original application papers deposited on March 23, 2004.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 23, 2004.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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RADER FISHMAN & GRAUER PLLC
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1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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In re Application of

Takashi Ohno

Application No. 10/806,267

Filed: March 23, 2004

Attorney Docket No. KKP-0276

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed September 10, 2008.

The petition is **granted**.

This application was held abandoned April 26, 2008, after an appeal brief was not filed after the filing of the Notice of Appeal on February 25, 2008. A Notice of Abandonment was mailed on August 13, 2008.

A review of the application file history reveals the following:

- on October 24, 2007, a final rejection was mailed allowing a shortened statutory period for reply of three months from its mailing date.
- on January 24, 2007, applicant filed a response to the final rejection.
- an Advisory Action mailed February 6, 2008, explaining that the response filed January 24, 2008, did not place the application in condition for allowance.
- on February 25, 2008, applicant filed a Petition to Withdraw the Finality of the October 24, 2007, final Office action, a Notice of Appeal, a "Pre-Appeal Brief Request for Review", and request for an extension of time within the first month.
- the Petition to Withdraw the Finality of the Office action was dismissed by a decision mailed May 9, 2008.
- a Notice of Abandonment was mailed August 13, 2008, stating that no response was received to the final Office action mailed October 24, 2007.
- the instant petition was filed September 10, 2008, wherein petitioner argues that the imposition of the holding of abandonment was premature in light of the filing of the "Pre-Appeal Brief Request for Review" filed February 25, 2008, to which no decision has yet been made.

Petitioner argues, and it is noted, that the Pre-Appeal Brief Conference Pilot was made effective July 12, 2005, and the situation at hand is governed by the time frames set forth in the *Official Gazette* Notice published July 12, 2005, which states, in pertinent part, that:

> . Time Periods Before/After a Panel Decision:
>
> The request must be filed with the filing of a notice of appeal and before the filing of the appeal brief. No extensions of time are available for filing the request for review. The time period for filing an appeal brief will be reset to be one month from mailing of the decision on the request, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable. To the extent that any existing USPTO rule is inconsistent with this pilot program, the rule is waived until regulations directed to pre-appeal brief conferences are promulgated, or the pilot program is ended. For example, if a request for pre-appeal brief conference is filed with a notice of appeal, the time period set in 37 CFR 41.37(a)(1) is waived so that an appeal will not stand dismissed if an appeal brief is not filed within two months of he filing date of a notice of appeal, but is filed within one month of the decision on the request.

Petitioner timely filed a Notice of Appeal and Request for Pre-Appeal Brief Request for Review both of which are required in order to participate in the pilot program[1]. A decision has not yet been rendered on the Pre-Appeal Brief Request for Review. Given the guidance above, the appeal brief is not required to be filed until a decision is made on the Pre-Appeal Brief Request for Review. The holding of abandonment was prematurely imposed and is withdrawn pending the decision on the Pre-Appeal Brief Request for Review.

The application file is being forwarded to Technology 1700, GAU 1796 to await a decision on the Pre-Appeal Brief Request for Review filed February 25, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that the Pre-Appeal Brief Conference Pilot was extended in the Official Gazette Notice mailed February 7, 2006.

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Microbiologica Quimica E Farmaceutica Ltd.
One Kendall Sq., Bldg 1400
Cambridge, MA 02139

Mail Date: 04/21/2010

Applicant	: Jaime A. Rabi	: DECISION ON REQUEST FOR
Patent Number	: 7582748	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/806,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **149** 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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1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Tautuhi et al.	:	DECISION ON PETITION
Application No. 10/806,335	:	
Filed: March 23, 2004	:	
Attorney Docket No. 1519-045	:	

This is a decision on the petition filed August 5, 2004, requesting that the above-identified application be accorded a filing date of March 23, 2004.

On March 23, 2004, applicants deposited the above-identified application. However, on June 7, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on March 23, 2004, describes drawings containing Figures 1a, 1b, 1c, 1d, 2a, and 2b, but no drawings were received by the USPTO on March 23, 2004.

On August 5, 2004, in response to the Notice, applicants filed a 2 sheets of drawings (Figures 1a, 1b, 1c, 1d, 2a, and 2b). Additionally, applicants alleged that the drawings were believed to be deposited with the USPTO at the time of filing. In support of the allegation, applicants submitted a Declaration by Benjamin J. Hauptman.

Mr. Hauptman's Declaration stated his usual practice of personally reviewing the entire package of documents actually filed with the USPTO, after assembly by one of his filing assistants. He further stated that he only signs the filing package if the included drawings matched the "Brief Description of the Drawings" section. Mr. Hauptman asserted that he personally reviewed and signed the package for the above-identified application filed in the USPTO. Based on his recollections the drawings were included in the package; otherwise, he would not have signed the application transmittal.

The argument has been considered but is not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official file reveals no drawings are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The recollections of Mr. Hauptman, which applicants rely on to support applicants' allegation that the drawings were submitted on filing the application is not sufficient evidence that those papers were actually filed in the Office.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers that are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date-stamped thereon by the Office. See MPEP 503. Unfortunately, applicants did not submit a date-stamped postcard receipt with the present petition.

In the alternative, applicants argued that drawings were not necessary for a filing date, because no drawing is required under 35 U.S.C. 113, first sentence for the understanding of the subject matter sought to be patented. Applicants requested that the application be considered complete and accorded a filing date of March 23, 2004.

The question of whether drawings are necessary under the first sentence of 35 U.S.C. 113 has been presented to the Supervisory Patent Examiner ("SPE")for Group Art Unit 1723, the Group Art Unit responsible for examining the subject matter claimed in this application. The SPE has stated that drawings are not required for an understanding of the invention disclosed in the above-identified application.

The application will be accorded a filing date of March 24,2004, without any drawings because drawings were not necessary to obtain a filing date in this instance. Accordingly, the petition is **granted**.

Applicants are advised that Figures 1a, 1b, 1c, 1d, 2a, and 2b submitted on petition **will not** be entered into the record at this time and **are not** part of the original disclosure of this application.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" of June 7, 2004, is hereby withdrawn.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of March 23, 2004, with "0" drawings, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,336	03/23/2004	Jacques Jolivet	PHARMA-357	2203

24999 7590 10/02/2008
MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

EXAMINER
RAE, CHARLESWORTH E

ART UNIT	PAPER NUMBER
1611	

MAIL DATE	DELIVERY MODE
10/02/2008	PAPER

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

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

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OCT 0 2 2008

MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
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ARLINGTON, VA 22201

In re Application of:
Jolivet et al.
Serial No.: 10/806,336
Filed: March 23, 2004
Attorney Docket No.: PHARMA-357

: PETITION DECISION

This is in response to the petition filed under 37 CFR § 1.181 on March 10, 2008, requesting that the finality of the Office action of September 11, 2007 be withdrawn; applicants contending that said final Office action was premature and thus improper. The delay in acting on this petition is regretted but only recently came to the attention of the deciding authority.

BACKGROUND

The examiner mailed a non-final Office action on December 19, 2006 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1, 3-15 and 17-60 were pending and examined. *Inter alia*, the examiner rejected claims 1, 3-15 and 17-60 on the ground of nonstatutory obvious type double patenting as being unpatentable over claims 1, 2, 3, 9, 10, 14-24, 30-36 of U.S. Patent 6,630,480 (Gourdeau '480), in view of U.S. Patent 6,747,036 (Gourdeau '036), in view of U.S. Patent 6,800,639 (Giles '639), and further in view of U.S. Patent 5,817,667 (Chu '667), and further in view of De Bono et al (J. Clin. Oncol. 2002: 20(1): 96-109, abstract only), rejected claims 1, 3-15 and 17-60, provisionally, on the ground of obviousness-type double patenting as being unpatentable over claims 11-21 of copending Application No. 10/824,563; claims 22-29 of copending Application No. 10/107,795, and claims 1-31 of copending Application No. 10/286,960, respectively, in view of Gordeau '480, in view of Gordeau '036, in view of Giles '639, in view of Chu '667, and further in view of De Bono et al

and rejected claims 1, 3-15 and 17-60 under 35 U.S.C. 103(a) as being unpatentable over De Bono et al., in view of Chu et al. (US patent 5,817,667), and further in view of Benet LZ et al.

In reply to the non-final Office action of December 19, 2006, applicants filed remarks and arguments, along with an amendment on May 14, 2007.

On September 11, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 3-15 and 17-60 were pending in the application and examined on their merits. The examiner removed the double patenting rejections as they applied to claims 1, 3-15 and 17-60 as being provisionally rejected over US application numbers 10/107,795 and 10/826,690. The examiner maintained the rejection of claims 1, 3-15 and 17-60 on the ground of nonstatutory obvious type double patenting as being unpatentable over claims 1, 2, 3, 9, 10, 14-24, 30-36 of U.S. Patent 6,630,480 (Gourdeau '480), in view of U.S. Patent 6,747,036 (Gourdeau '036), in view of U.S. Patent 6,800,639 (Giles '639), and further in view of U.S. Patent 5,817,667 (Chu '667), and further in view of De Bono et al., maintained the rejection of claims 1, 3-15 and 17-60, provisionally, on the ground of obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/286,960 in view of Gordeau '480, in view of Gordeau '036, in view of Giles '639, in view of Chu '667, and further in view of De Bono et al. and lastly, the examiner maintained the rejection of claims 1, 3-15 and 17-60 under 35 U.S.C. 103(a) as being unpatentable over De Bono et al. , in view of Chu et al. (US patent 5,817,667), and further in view of Benet LZ et al. (pages 3 and 18). Further, the examiner newly provided a reference by Lokich et al. to support each of the maintained double patenting rejections as well as the 35 U.S.C. 103(a) rejection.

With regard to the Lokich et al. citation, the examiner stated the following. This lengthy portion of the final Office action as it pertains to Lokich et al. is reiterated here due to its importance in determining the outcome of the petition decision rendered herein:

> Although there is some merit to applicant's contentions that there is a significant difference between the 30-minute duration of administration of the intravenous infusion of troxacitabine as taught by De Bono et al. ... as compared with the instantly claimed at least 72 hours infusion time ...this is not sufficient to overcome the rejection as someone of skill in the art at the time the instant invention was made would have found it obvious to create the instant claimed invention with reasonable predictability for the reasons previously made of record in the Office action mailed 12/19/06, **and as evidenced by the teaching of Lokich et al.** (Lokich et al. Dose intensity for bolus versus infusion chemotherapy administration: Review of the literature for 27 anti-neoplastic agents. Ann Oncol. 1997;8(1):15-25). Besides, it is within the knowledge and skill of an artisan skilled in the art to conduct routine experimentation to determine the therapeutically effective amount of a drug, and/or the optimal duration of infusion, and/or the optimal drug plasma/serum concentration. Lokich et al. teach that so e anti-neoplastic agents are administered as a continuous 24-hours infusion for five or more days routinely, such as 5-fluorouracil and cladrabine, while some agents, for example, fludarabine and etoposide are administered as a daily bolus for three to five days. Lokich et al. teach that the rationale for infusional administration for chemotherapeutic agents is generally based upon observing schedule dependency in experimental systems and drug pharmacology in which a short plasma half-life following bolus administration would limit tumor cell exposure; the infusion schedule may also mitigate the acute and chronic toxicities commonly associated with high) peak levels (page 15, col. 1, introduction section, lines 8-15; see also page 18, Table 3). Lokich et al. teach that infusional schedules employ various durations of administration, including 24-hour infusion repeated at weekly or longer intervals; 96-120 hour infusions; 7 or 14 day infusions; and protracted infusion for weeks or months (page 15, col. 1, line 15 to col. 2, line 3). Lokich et al. also teach that the selection of a duration

of infusion is often arbitrary or based on achieving specific objectives such as decreasing allergic, gastrointestinal or other adverse effects; the dose intensity (DI) and the maximum tolerated dose (MTD) for infusional schedules may be different from those achieved with bolus administration and as such may influence the clinical effectiveness of the therapy.... Lokich et al. teach that an important component to infusional chemotherapy is not only the MTD but the actual duration of infusion which influences the MTD (page 23, lines 1-3). For some agents, cumulative effects with infusional administration may result in accentuated toxicity necessitating treatment interruptions, but for most drugs, adjustments in the dose rate will permit long term administration for weeks or even months (page 23, lines 3-8). Further, Lokich et al. teach that the role of treatment duration in terms of therapeutic advantage has not been unequivocably established for any agent but conceptually, the longer duration permit a protracted exposure to the neoplastic cell optimizing the potential for a drug-cell interaction ... (page 23, col. 1, lines 8-18). The below discussion of the 103(a) rejection is also incorporated by reference. (pp. 10-11 final Office action, emphasis by underline in the examiner's original statements, emphasis in bold added herein).

On January 11, 2008, applicants submitted a reply under 37 C.F.R. § 1.116 in response to the final Office action mailed September 11, 2007. Within this reply, applicants submitted arguments in rebuttal to the rejections set forth in said final Office action, as well as a specific request to the examiner to withdraw the finality of said Office action; applicants asserting that the final Office action raised new grounds of rejection which were not necessitated by applicants' amendments to the claimed invention.

On February 12, 2008, the examiner mailed an Advisory Action indicating that applicants' request for reconsideration was considered, but not found persuasive. In particular, with regard to applicants' allegation that the rejection of claims 1, 3-15 and 17-60 under 35 U.S.C. 103(a) was a new ground of rejection, the examiner replied in this Advisory: "[c]learly, Lokich et al. is only cited as evidence to show the general state of the art (see Office action mailed 9/11/07, page 24, second full para)."

In response thereto, applicants filed this petition under 37 CFR § 1.181 on March 10, 2008, requesting that the finality of the Office action of September 11, 2007 be withdrawn; applicants contending that said final Office action was premature and thus improper.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on March 10, 2008, applicants argue that the examiner's inclusion of the Lokich et al. reference in the double patenting rejections as well as the 35 U.S.C. 103(a) rejection in the final Office action constituted a new ground of rejection which was not necessitated by applicants' amendment to the claimed invention. While the examiner asserts on the record that Lokich et al. was placed merely to support the maintained rejections in the final Office action by providing the general state of the art; applicants, to the contrary, argue that the examiner's use of Lokich et al. was used in a more substantive manner by the examiner; specifically, to provide additional motivation as to render obvious the claimed duration of infusion administration as instantly claimed.

Applicants' arguments are well-taken. While the examiner stated on the record that the citation to Lokich et al. in the final Office action was merely to show the state of the art, the examiner's use of the Lokich et al. reference in the final Office action was clearly more substantive in nature than the examiner contends. The proper use of extrinsic evidence is to provide proof or rationale that a characteristic element, not explicitly stated in a primary reference, is necessarily present (i.e., inherent), to provide a meaning of a claim term or to demonstrate that the cited reference possesses an enabling disclosure (see, for example MPEP § 2131.01 for a discussion of when extrinsic evidence is appropriate for use in rejections). However, such is not the case in the placement of Lokich et al. into the rejection made by the examiner under 35 U.S.C. 103(a) in the final Office action. Lokich et al. is substantively used in said rejection to provide a quite lengthy rational by the examiner to adjust the 30 minute duration of administration of intravenous infusion as taught by De Bono et al. to the claimed 'at least 72 hours' of infusion time required by the claimed invention. Hence, the examiner's apparent use of the Lokich et al. reference as extrinsic evidence in the rejections set forth in the final Office action was inappropriate as the Lokich et al. reference plainly *provides motivation* to adjust the duration of infusion. Thus, the rejections set forth *"...as supported by Lokich et al"* as instituted by the examiner in the final Office action are all considered new grounds of rejection.

The only claim amendments made by applicants in the interim between the non-final Office action and the final Office action are found in the response filed on May 14, 2007 and are considered informal in nature. Thus, these claim amendments did not necessitate said new grounds of rejection placed by the examiner in the final Office action.

Therefore, applicants' arguments are found persuasive that the final Office action issued September 11, 2007 was improper and premature. Thus, the finality of said Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

ROGER A. GILCREST
250 WEST STREET
COLUMBUS, OH 43216-7513

COPY MAILED

SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Robert Harris et al :
Application No. 10/806,358 : DECISION ON PETITION
Filed: March 19, 2004 :
Attorney Docket No. :
DIA1809-003D

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 3, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 4, 2006. A Notice of Abandonment was mailed on September 5, 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.

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. 11/499,287, filed August 4, 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 on August 4, 2006 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

cc:

Roger A. Gilcrest
Schottenstein, Zox & Dunn Co., L.P.A.
P. O. Box 165020
Columbus, OH 43216-5020

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Paper No. None

Karel BOSTIK
15116 - 86 Street
EDMONTON AB T5E 5X6
CANADA

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Karel BOSTIK	:	
Application No. 10/806,360	:	DECISION ON PETITION
Filed: March 23, 2004	:	UNDER 37 C.F.R. §1.181(A)
Title: SHEAR COUPLING	:	

This is a decision on the petition filed May 15, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 7, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 8, 2004. A notice of abandonment was mailed on March 29, 2006.

With the present petition, Petitioner has asserted that a reply to the notice was mailed on June 29, 2004.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

37 C.F.R. §1.10(e) sets forth, *in toto*:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(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";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

As set forth above, the Notice of Missing Parts was mailed on June 7, 2004, and set a two-month period for reply. As such, a response was due no later than August 8, 2004. No response was received.

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he submitted a response to the non-final Office action on June 29, 2004.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. However, it does not appear that Petitioner has provided a copy of the letter which was purportedly sent to the Office on June 29, 2004.

37 C.F.R. §1.10(e) provides an alternate mechanism by which applicants may establish that a communication was submitted to the Office, but not received by the same. However, this Rule does not appear to be applicable, as it is doubtful that an applicant in Canada mailed a letter to the Office via the United States Postal Service.

Finally, Petitioner has submitted payment in the amount of $145, however the fees have changed since 2004. The amount which is presently due is $180.

CONCLUSION

For the above-mentioned reasons, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. On renewed petition, Petitioner should supply a copy of the letter of June 29, 2004 and the deficient $35.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries

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

concerning examination procedures or status of the application should be directed to the Technology Center.

Pursuant to 37 C.F.R. §1.5, all correspondence which concerns a previously filed application for a patent must identify on the top page, in a conspicuous location, the application number.

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

Encl. copy of the Notice of Fee Due

Document Code: IMIS

Notice of Fee Due

Courtesy Copy

Date: 05-17-06

Application Number: 10,806,360

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- [x] Insufficient payment by check or money order.
- [ ] Insufficient funds in deposit account _____.
- [ ] Insufficient payment by credit card.
- [ ] Declined credit card.
- [ ] No authorization to charge a deposit account.

Fee code(s) to be applied:	2203	180.00
Amount in holding fee code:	1622	
	2622	145.00
	1999	35.00
Total remaining due from applicant:		35.00

RAM Operator Farah

Rev. 4/20/06

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Paper No. None

Karel BOSTIK
15116 - 86 Street
EDMONTON AB T5E 5X6
CANADA

COPY MAILED
NOV 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Karel BOSTIK	:	
Application No. 10/806,360	:	DECISION ON RENEWED PETITION
Filed: March 23, 2004	:	UNDER 37 C.F.R. §1.181(A)
Title: SHEAR COUPLING	:	

This is a decision on the renewed petition filed September 18, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

Receipt of both a copy of the letter of June 29, 2004 and the previously deficient fee amount is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 7, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 8, 2004. A notice of abandonment was mailed on March 29, 2006.

With the original petition, Petitioner asserted that a reply to the notice was mailed on June 29, 2004.

PROCEDURAL HISTORY

The original petition was filed on May 15, 2006, and was dismissed via the mailing of a decision on August 15, 2006.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

37 C.F.R. §1.10(e) sets forth, *in toto*:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(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";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

As set forth above, the Notice of Missing Parts was mailed on June 7, 2004, and set a two-month period for reply. As such, a response was due no later than August 8, 2004. No response was received.

In the original petition, Petitioner asserted that he submitted a response to the non-final Office action on June 29, 2004. The decision on the original petition noted that the copy of the letter which was purportedly sent to the Office on June 29, 2004 does not contain a certificate of mailing, and that it was not likely that he mailed the application via the Express Mail service of the USPS.

With this renewed petition, Petitioner has indicated that he used a Canadian service entitled "Registered Mail," but is not in a position to be able to obtain a copy of the delivery records.

Unfortunately, 37 C.F.R. §1.10(e) is applicable only to applicants utilizing the Express Mail service of the United States Postal Service. There are only two ways in which an applicant can establish the timely mailing of a communication which was not received, and it does not appear that Petitioner will be able to meet the requirements of either of these mechanisms.

CONCLUSION

Pursuant to the discussion above, the renewed petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. **Thereafter, there will be no further reconsideration of this matter**[4, 5].

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.
5 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Pursuant to 37 C.F.R. §1.5, all correspondence which concerns a previously filed application for a patent must identify on the top page, in a conspicuous location, the application number.

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

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Karel BOSTIK
15116 - 86 Street
EDMONTON AB T5E 5X6
CANADA

COPY MAILED

JAN 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Karel BOSTIK	:	
Application No. 10/806,360	:	DECISION ON PETITION
Filed: March 23, 2004	:	UNDER 37 C.F.R. §1.137(B)
Title: SHEAR COUPLING	:	

This is a decision on the petition filed January 4, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 7, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 8, 2004. A notice of abandonment was mailed on March 29, 2006.

---

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A petition pursuant to 37 C.F.R. §1.181(a) was filed on May 15, 2006, which was dismissed via the mailing of a decision on August 15, 2006. A renewed petition pursuant to 37 C.F.R. §1.181(a) was filed on September 18, 2006, which was dismissed via the mailing of a decision on November 13, 2006.

The present petition pursuant to 37 C.F.R. §1.137(b) was received on January 4, 2007, along with the petition fee and the proper statement of unintentional delay. The response to the notice was previously submitted with the original and renewed petitions pursuant to 37 C.F.R. §1.181(a). No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. None

MARTHA L. STEVENSON
17156 CLYDE AVENUE
SOUTH HOLLAND IL 60473

COPY MAILED
SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of :
MARTHA L. STEVENSON :
Application No. 10/806,362 : DECISION ON PETITION
Filed: March 23, 2004 :
Title: FLAVORED COFFEE FILTER INSERTS :
AND FLAVORED COFFEE FILTERS :

This is a decision on the petition under 37 C.F.R. §1.182, filed July 6, 2004, requesting that the above-identified application be accorded a filing date of March 23, 2004, with Figure 2 as part of the original disclosure of the application.

The application was deposited March 23, 2004. However, on June 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a notice stating that the application had been accorded a filing date of March 23, 2004, and that the application appeared to have been deposited without Figure 2.

With the instant petition, Petitioner has submitted a copy of Figure 2 along with the petition fee. Petitioner has asserted that Figure 2 was included on filing. In order to support this allegation, Petitioner has set forth that she has examined her personal patent file and Figure 2 has been found in the file. As such, she believes that the figure was included on filing.

THE RELEVANT SECTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

ANALYSIS

The PTO file is the official record of all papers filed in this application. It is noted that the electronic file contains 2 pages of drawings, containing Figures 1 and 3. Figure 2 has not been located in the electronic file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The only evidence relied on to support petitioner's allegation is her statement that her copy of the application contains the missing figure. However, the inclusion of the figure in her copy of the file is not more persuasive than the PTO file.

The PTO has a well established and well publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt which *itemizes and properly identifies* the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO[1].

1 See MPEP 503.

No postcard receipt which shows that Figure 2 was filed and received by the Office has been submitted with the instant petition.

As such, it appears that Figure 2 was not filed with the Office on March 23, 2004. For this reason, the petition cannot be granted.

CONCLUSION

For these reasons, the petition is **DISMISSED**.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The application file is being returned to OIPE for further processing with a filing date of March 23, 2004, using only the application papers which were filed on that date. Figure 2 will not be entered.

If Petitioner desires for the examiner to consider this page which was not submitted as part of the original disclosure, then she may submit this figure via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

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

2 See MPEP 608.02(h) and 608.04.

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

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SEP 2 3 2008

OFFICE OF PETITIONS

In re Application of
Manchester et al.
Application No. 10/806,369
Filed: March 23, 2004
Docket No. 225672

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 18, 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 timely obtained. Accordingly, the application became abandoned on April 19, 2008. A Notice of Abandonment was mailed July 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, 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 $2,230.00 five month extension of time fee submitted with the petition on September 2, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

The Power of Attorney submitted on July 6, 2005 was not accepted as it does not comply 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; **(3) the submission establishing ownership must be signed by a party authorized to**

act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

The Statement under 37 CFR 3.73(b) submitted concurrently with the Power of Attorney was signed by a registered practitioner. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee. See MPEP § 324(V).

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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2153 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: William J. Kramer
Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

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RYAN KORMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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OFFICE OF PETITIONS

In re Application of	:
Lionel Nelson et al	: DECISION ON PETITION
Application No. 10/806,372	: UNDER 37 CFR 1.78(a)(3)
Filed: March 22, 2004	:
Attorney Docket No. 9473.18567	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 4, 2004, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 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 nonprovisional and provisional applications.

The petition is **DISMISSED**.

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

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

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent

section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable.

Additionally, the amendment 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) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and a substitute amendment to correct the above matters 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 Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

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

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POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of	:
Lionel M. Nelson et al	: DECISION ON PETITIONS
Application No. 10/806,372	: UNDER 37 CFR 1.78(a)(3) AND
Filed: March 22, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9473.18567	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 28, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

The instant 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)(iii) and 1.78(a)(5)(iii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3732 for appropriate action on the amendments submitted February 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 nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

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

ATTACHMENT Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of :
Masaru Kito et al :
Application No. 10/806,398 : ON PETITION
Filed: March 23, 2004 :
Attorney Docket No. 250933US2S :

This is a decision on the petition, filed December 22, 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 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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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KEYSER MASON BALL, LLP
FOUR ROBERT SPECK PARKWAY, SUITE 1600
MISSISSAUGA, ON L4Z 1S1
CANADA

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OFFICE OF PETITIONS

In re Application of :
ZELLEN, et al. :
Application No. 10/806,410 : DECISION ON PETITION
Filed: March 23, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1358-11 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 23, 2004, 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 passport from Van Miller. Accordingly, the above-identified application has been accorded "special" status.

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

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 1761 for action on the merits commensurate with this decision.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: **GOWAN INTELLECTUAL PROPERTY**
1075 NORTH SERVICE ROAD WEST, SUITE 203
OAKVILLE, ON L6M-2G2
CANADA

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OFFICE OF PETITIONS

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

In re Application of	:	
Toshiki Taguchi et al	:	
Application No. 10/806,424	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. Q80611	:	

This is a decision on the petition, filed January 30, 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 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 1755 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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OFFICE OF PETITIONS

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

In re Patent No. 7,174,131	:	
Issue Date: February 6, 2007	:	
Application No. 10/806,438	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. Q79808	:	

This is a decision on the petition filed January 3, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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APR 12 2005

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

In re Application of	:	
Takayuki Akahoshi	:	DECISION PETITION
Serial No.: 10/806,470	:	
Filed: March 23, 2004	:	
Title: PHACOEMULSIFICATION NEEDLE	:	

This is in response to the petition applicant filed on September 7, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
Katsunori Onishi	:	
Application No. 10/806,475	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 040894-7016	:	

This is a decision on the petition, filed January 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2627 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.:20071113

DATE : November 13, 2007

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: Application 10/806,481

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:

MYD

Jack Chiang

SPE: Jack Chiang **Art Unit** 2825

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MARSHALL G. MACFARLANE
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert M. Ransom et al	:	
Application No. 10/806,492	:	DECISION ON PETITION
Filed: March 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. WEC-122-B	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed January 6, 2006, and supplemented on January 18, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to Technology Center Art Unit ~~2611~~ 3637 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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QUINTERO LAW OFFICE, PC
2210 MAIN STREET, SUITE 200
SANTA MONICA CA 90405

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OFFICE OF PETITIONS

In re Application of	:	
Ching-Hui Yen et al	:	
Application No. 10/806,493	:	DECISION ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 10113961	:	

This is a decision on the petition, filed, January 30, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application. This is also a decision on the petition to expedite filed February 1, 2007.

The requests are **GRANTED**.

Petitioner states that the correct assignees names are BENQ Corporation and Fulfil Technology and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent 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 BENQ Corporation and Fulfil Technology are the assignees 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) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Han Ting Chang et al :
Application No. 10/806,495 : ON PETITION
Filed: March 22, 2004 :
Attorney Docket No. ILPS 04011.101

This is a decision on the petition, filed May 7, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 11, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1713 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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WOOD HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of	:	
Gholam Peyman	:	
Application No. 10/806,545	:	DECISION ON PETITION
Filed: March 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. PMAN / 26CIP	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 2, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Gholam Peyman stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1615 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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RAGGIO & DINNIN, P.C.
2701 CAMBRIDGE COURT, STE. 410
AUBURN HILLS, MI 48326

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OFFICE OF PETITIONS

In re Application of :
Ronald Thomas :
Application No. 10/806,552 : ON PETITION
Filed: March 23, 2004 :
Attorney Docket No. 0114-00208 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 29, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 30, 2006.

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

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

This matter is being referred to Technology Center AU 1732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John A. Artz
38525 Woodward Avenue, Suite 2000
Bloomfield Hills, MI 48304

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
Sarah Jane Mears :
Application No. 10/806,556 : ON PETITION
Filed: March 23, 2004 :
Attorney Docket No. EL0508USNA :

This is a decision on the petition filed, December 20, 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 6, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 7, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on December 20, 2006.

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

This matters is being referred to Technology Center AU 1751 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CLIFFORD CHANCE US, LLP
31 WEST 52ND STREET
NEW YORK, NY 10019-6131

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OFFICE OF PETITIONS

In re Application of
Mark Gibson, et. al.
Application No. 10/806,571
Filed: March 22, 2004
Attorney Docket No. 80-20702767

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed on June 26, 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 under 37 CFR 1.114; (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 Technology Center Art Unit 2175 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Thomas M. Galgano
20 W. Park Avenue
Suite 204
Long Beach NY 11561

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OFFICE OF PETITIONS

In re Application of	:	
Peter Collier, et al.	:	
Application No. 10/806,592	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 3015-3	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 10, 2008. The Notice of Abandonment was mailed January 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/424,942.

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

The application file is being referred to File Repository.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Pradeep J. Iyer, et al.	:	
Application No. 10/806,601	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 6259P005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 14, 2009, 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 September 15, 2009. See MPEP 1215.04. The Notice of Abandonment was mailed March 17, 2010.

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 $1,620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 2474 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.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WILLIAM W. SCHAAL**
3200 PARK CENTER DRIVE, SUITE 700
COSTA MESA, CA 92626

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J. Steven Gardner
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

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JUL 06 2010

OFFICE OF PETITIONS

In re Application :
Davies, et al. :
Application No. 10/806,603 : PATENT TERM ADJUSTMENT
Filed: March 23, 2004 :
Dkt. No.: UNCC 02-021 :

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed February 26, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is 150 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the

USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Casper et al.	:	
Application No. 10/806,613	:	DECISION ON PETITION
Filed: 22 March, 2004	:	
Attorney Docket No.	:	
2710.0990003/JUK/MEK	:	

This is a decision on the petition filed on 28 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 May, 2005, for failure to timely reply to the non-final Office action mailed on 31 January, 2005, which set a three (3) month shortened period for reply. No

[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)).

extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 28 September, 2005.

This application is being referred to Technology Center 1617 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LAWRENCE M. CHO
P.O. BOX 2144
CHAMPAIGN IL 61825

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OFFICE OF PETITIONS

In re Application of
Singh, et al.
Application No. 10/806,617
Filed: March 23, 2004
Attorney Docket No. ALT/P023 (A 1258)
For: METHOD AND APPARATUS FOR PERFORMING LOGIC REPLICATION IN FIELD PROGRAMMABLE GATE ARRAYS

DECISION DISMISSING PETITION

This is a decision on the petition filed June 24, 2004 (certificate of mailing date June 21, 2004) requesting, in effect that the Notice mailed June 10, 2004 be withdrawn and that allegedly omitted page 5 of the specification and the application papers filed on March 23, 2004 be accorded a filing date of March 23, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 23, 2004. On June 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that page 5 of the specification appeared to have been omitted.

Petitioners request that the whole application, including page 5 of the specification, be accorded a filing date of March 23, 2004 on the basis that 32 pages of utility application were received in the Patent and Trademark Office (PTO) on March 23, 2004, as is stated on the return receipt postcard, which was date stamped by the PTO and returned to applicants.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "patent application" will not serve as a proper receipt for each of the required components of an application or missing portions of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The itemized postcard in this case was **not** properly itemized. The initial reviewers compare/contrast the application papers before them to the postcard receipt. The postcard receipt

in this case did not identify how many pages were in the specification. Therefore, the postcard receipt cannot be relied upon to prove a missing page of the specification was received.

Since page 5 cannot be proved to be among the papers filed on March 23, 2004, the application cannot be accorded a March 23, 2004 filing date with page 5 as a part of the original disclosure of this application. The petition under 37 CFR 1.53(e) is **DISMISSED**.

Petitioners may still submit page 5 and a petition under 37 CFR 1.182 requesting a filing date for the application as of the date page 5 was filed.

If petitioners do not select the above option, petitioners must either (1) file an amendment renumbering the application pages and eliminating references to page 5 prior to the first PTO action in order to avoid further delays in the examination of the application or (2) in the alternative, submit page 5 as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on March 23, 2004. See MPEP 608.02(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 23, 2004. Page 5 will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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CHAMPAIGN IL 61825

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OFFICE OF PETITIONS

In re Application of	:	
Singh, et al.	:	
Application No. 10/806,617	:	DECISION GRANTING
Filed: March 23, 2004	:	PETITION
Attorney Docket No. ALT/P023 (A 1258)	:	
For: METHOD AND APPARATUS FOR PERFORMING LOGIC REPLICATION IN FIELD PROGRAMMABLE GATE ARRAYS	:	

This is a decision on the reconsideration petition filed September 7, 2004 (certificate of mailing date September 1, 2004) requesting, in effect that the Notice mailed June 10, 2004 be withdrawn and that allegedly omitted page 5 of the specification and the application papers filed on March 23, 2004 be accorded a filing date of March 23, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 23, 2004. On June 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that page 5 of the specification appeared to have been omitted.

Petitioners request that the whole application, including page 5 of the specification, be accorded a filing date of March 23, 2004 on the basis that 32 pages of utility application were received in the Patent and Trademark Office (PTO) on March 23, 2004, as is stated on the return receipt postcard, which was date stamped by the PTO and returned to applicants.

Applicant's first petition under 37 CFR 1.53(e), filed June 24, 2004 (certificate of mailing date June 21, 2004), was dismissed on August 13, 2004 because the postcard receipt was deemed not properly itemized.

In response to the petition decision, petitioner timely filed the present reconsideration petition.

Petitioners reiterate their request that the application be accorded a filing date of March 23, 2004 with page 5 as part of the original application papers based on their contention that page 5 was received in the Patent and Trademark Office (PTO) on March 23, 2004.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. For example, merely listing on the postcard "patent application" will not serve as a proper receipt for each of the required components of an application or missing portions of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The Office maintains that the itemized postcard in this case was not properly itemized. It is noted that the postcard receipt lists " Application Utility - Rule 1.53 (32 pgs. w/cover)," while the original transmittal letter properly identifies "specification [Total Pages 32]." The word "application" is viewed differently from the word "specification."

Even though the postcard receipt was not properly itemized with respect to the specification, petitioner can establish that 32 pages of application were received. Fortunately, petitioner numbered the specification, claims and abstract in sequential order and itemized the drawings separately. The Office received pages 1-4 and 6-32 of the specification. Since petitioner has established that 32 pages were received in the Office on March 23, 2004, the Office will accept page 5 as filed on March 23, 2004.

In the future, petitioner is strongly encouraged to itemize any new application postcard receipts with the word "specification" rather than the word "application."

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 23, 2004, using the copy of page 5 supplied on June 24, 2004 (certificate of mailing date June 21, 2004) .

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

E Shirene Willis

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10806635 Patent No.: 7479746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

Top of Form

☐ **Approved**	**All** changes apply.

Bottom of Form

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

Top of Form

Comments: _____

All Approved

/Erick Glass/ /April 8, 2009/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Bottom of Form

SPE /Walter Benson/
Art Unit 2837

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10806635 Patent No.: 7479746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

All Approved

/Erick Glass/ /April 8, 2009/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7479746 B2
APPLICATION NO. : 10/806,635
ISSUE DATE : 01/20/09
INVENTOR(S) : ROZMAN, GREGORY I.

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

The Title Page, showing an illustrative figure, should be deleted and substitute therefor the attached Title Page.

Delete drawing sheet and substitute therefor the drawing sheet, consisting of figs. 1 and 2 as shown on the attached page.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,479,746 B2

APPLICATION NO.: 10/806,635

ISSUE DATE : January 20, 2009

INVENTOR(S) : Rozman et al.

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

NO

[redacted]

[redacted]

IN THE CLAIMS:

Claim 6, Column 4, line 20: "inverter" should read as --converter--

Claim 9, Column 4, line 35: "toad" should read as --load--

Claim 19, Column 6, line 3: "convened" should read as --converted--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Carlson, Gaskey & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, MI 48009

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

APR 01 2009

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

US007479746B2

3 of 4

(12) **United States Patent**
Rozman et al.

(10) **Patent No.: US 7,479,746 B2**
(45) **Date of Patent: Jan. 20, 2009**

(54) **POWER CONVERTER FOR AN ELECTRIC ENGINE START SYSTEM**

(75) Inventors: **Gregory I. Rozman**, Rockford, IL (US); **Richard J. Lapointe**, Ellington, CT (US); **Douglas A. Parsons**, Canton, CT (US)

(73) Assignee: **Hamilton Sundstrand Corporation**, Windsor Locks, CT (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 685 days.

(21) Appl. No.: **10/806,635**

(22) Filed: **Mar. 23, 2004**

(65) **Prior Publication Data**

US 2005/0212466 A1 Sep. 29, 2005

(51) **Int. Cl.**
H02P 1/54 (2006.01)
H02P 5/00 (2006.01)
H02P 5/46 (2006.01)

(52) **U.S. Cl.** **318/98**; 318/101; 318/453; 318/623

(58) **Field of Classification Search** 318/98, 318/101, 453, 623

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,949,021	A		8/1990	Rozman et al.	
4,973,896	A	*	11/1990	Shiga et al.	322/28
4,992,721	A	*	2/1991	Latos	322/10
5,029,263	A		7/1991	Rozman	
5,574,345	A	*	11/1996	Yoneta et al.	318/376
6,018,233	A		1/2000	Glennon	
6,037,752	A		3/2000	Glennon	
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2004/0008527	A1	*	1/2004	Honda	363/39

OTHER PUBLICATIONS

U.S. Appl. No. 10/893,462, filed Jul. 16, 2004.
U.S. Appl. No. 10/881,309, filed Jun. 30, 2004.
U.S. Appl. No. 10/872,625, filed Jun. 21, 2004.

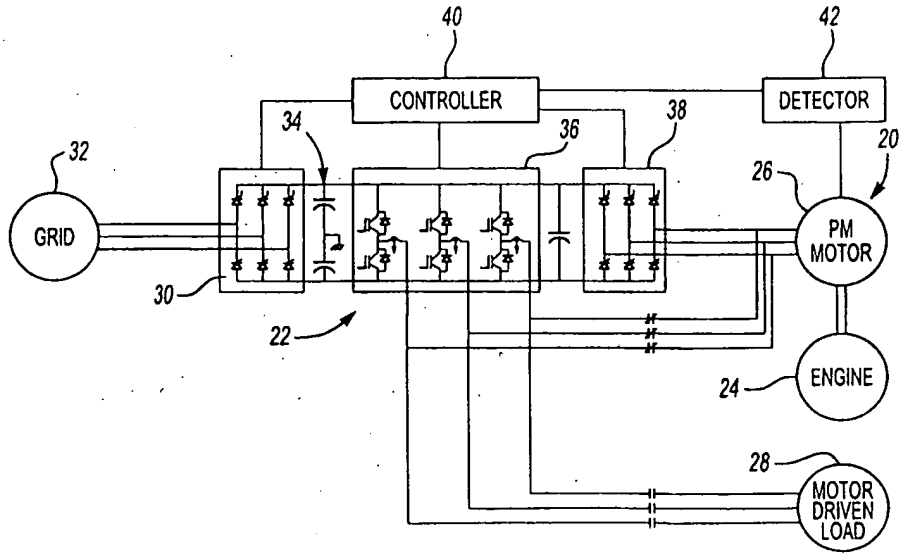
* cited by examiner

Primary Examiner—Walter Benson
Assistant Examiner—Erick Glass
(74) *Attorney, Agent, or Firm*—Carlson, Gaskey & Olds

(57) **ABSTRACT**

An electric engine starting system includes a permanent magnet motor that is used to start the engine and then to generate power for powering a load while the engine is running. A disclosed system includes a first phase controlled rectifier in series with a power converter and a second phase controlled rectifier. During an engine starting operation, the first phase controlled rectifier is switched to couple the permanent magnet motor to a power source for starting the engine. Once the engine is running, the first phase controlled rectifier is switched off and the second phase controlled rectifier is switched on. The second phase control rectifier converts variable AC power from the motor into DC power. The power converter converts the DC power into an appropriate power for driving the load. One disclosed example includes a filter between the power converter and the load to ensure that the load receives a selected quality of power.

20 Claims, 1 Drawing Sheet



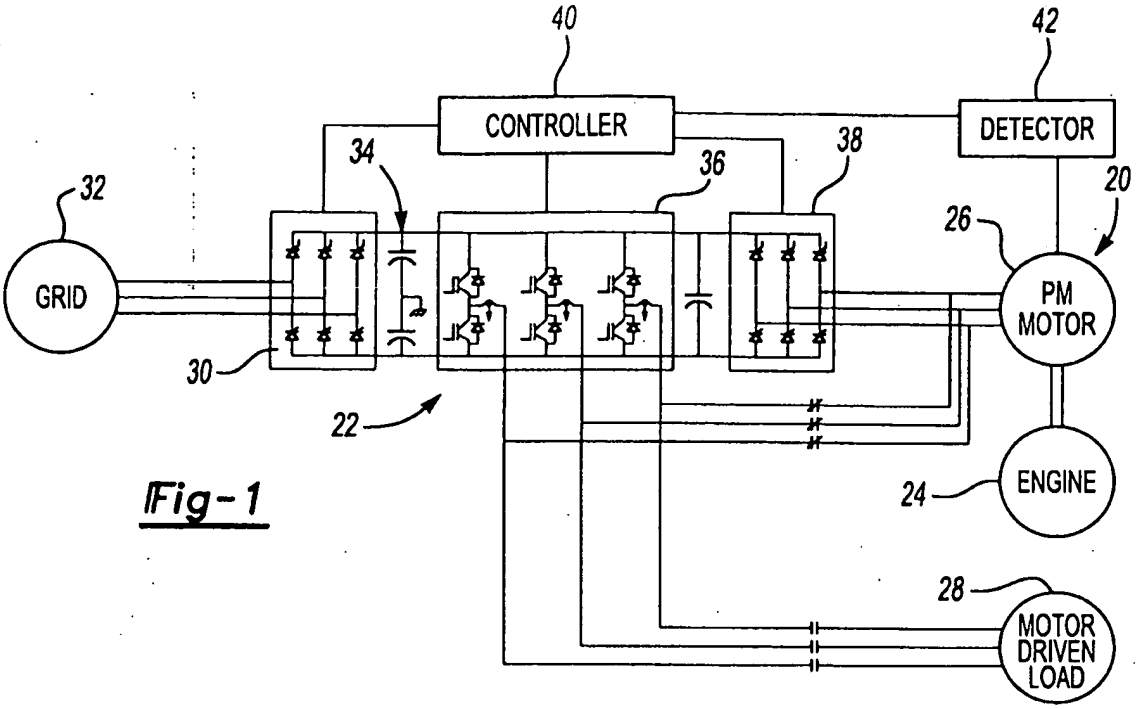
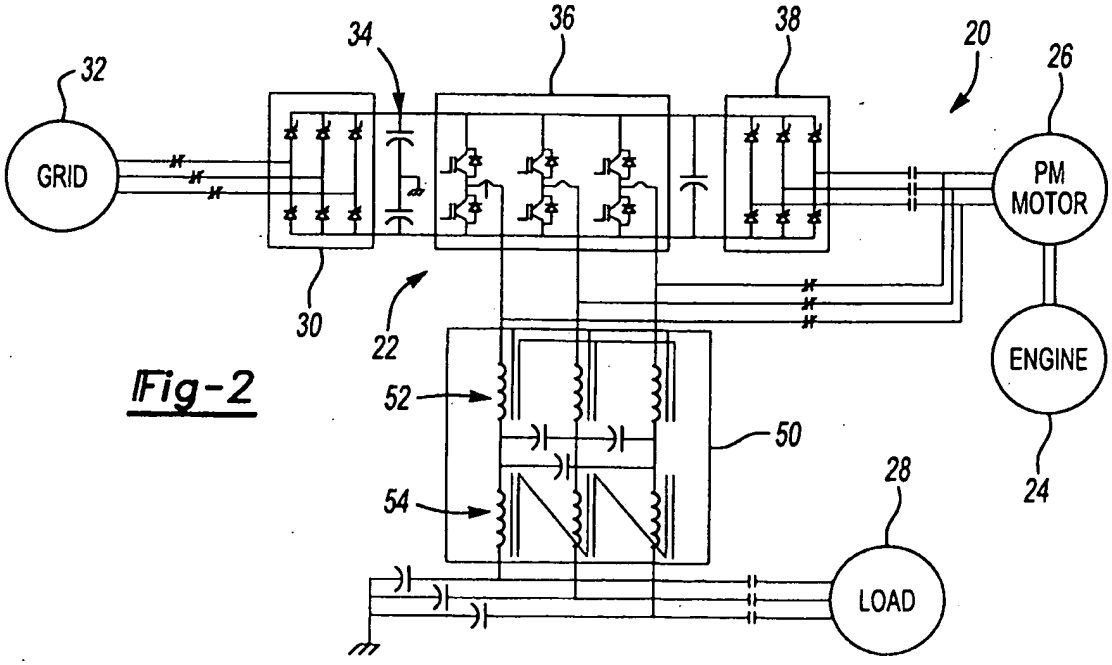

40
CONTROLLER
42
DETECTOR
34
36
38
32
20
26
GRID
PM MOTOR
30
22
ENGINE
24
28
MOTOR DRIVEN LOAD

Fig-1


34
36
38
20
32
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GRID
PM MOTOR
30
22
ENGINE
52
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28
24
LOAD

Fig-2

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Jeffrey J. Schroeder	: DECISION ON REQUEST FOR
Patent Number	: 7585559	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/806,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **542** 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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WOOD PHILLIPS KATZ CLARK & MORTIMER
500 W. MADISON STREET, SUITE 3800
CHICAGO, IL 60661

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NOV 15 2005
OFFICE OF PETITIONS

In re Application of	:	
Bradley Emalfarb	:	
Application No. 10/806,653	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 00254P0077US	:	

This is a decision on the petition filed, October 11, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 22, 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 May 23, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 11, 2005.

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

This matter is being referred to Technology Center AU 3711 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

JAN 26 2005

TECHNOLOGY CENTER 3600

Philip A. Dalton
236 West Portal Ave., No. 15
San Francisco, CA 94127-1423

In re application of
Robert F. Miller et al
Application No. 10/806,657
Filed: March 22, 2004
For: METAL PIPE COUPLING AND ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 25, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Robert F. Miller 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/dcg: 1/24/05

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OCT 0 2 2006

OFFICE OF PETITIONS

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

In re Application of :

INGRAM :
Application No. 10/806,670 : DECISION ON PETITION
Filed: March 22, 2004 : TO WITHDRAW
Attorney Docket No. 2001783-0015 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Valarie B. Rosen, the sole attorney of record. Valarie B. Rosen been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 16, 2006 that requires a reply from the applicant.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Rupert Ingram II**
9 Minorca Avenue, Monte Sereno
Somerset West, South Africa 7130

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CRAIG HORNBUCKLE
SIERRA MONOLITHICS INC
103 WEST TORRANCE BLVD
REDONDO BEACH, CA 90277

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
David Rowe et al	:	
Application No. 10/806,682	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. SMI-001 US	:	

This is a decision on the petition under 37 CFR 1.173(b), filed March 25, 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 8, 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 9, 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, since the $1,080.00 extension of time submitted with the petition on March 25, 2005 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 Wan Laymon at (571) 272-3220.

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WILLIAM J. DAVIS, ESQ.
LEGAL DEPARTMENT
GAF MATERIALS CORPORATION
1361 ALPS ROAD
WAYNE, NJ 07470

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of
Edward C. Villela, et al.
Application No. 10/806,690
Filed: March 23, 2004
Attorney Docket No. DN-2652-2/DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 9, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Philip Braginsky appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Braginsky desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Braginsky, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 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.

---

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

The application is being referred to Technology Center AU 3721 for further processing of the request for continued examination under 37 CFR 1.114.

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

cc: PHILIP BRAGINSKY
SILLS CUMMIS EPSTEIN AND GROSS P.C.
30 ROCKEFELLER PLAZA, 27TH FLOOR
NEW YORK, NY 10112

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Date : September 12, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Edward C. Villela, et al.
Application No. : 10/806,690
Filed : March 23, 2004

The above-identified application has been assigned Patent No. 6,942,135 and an issue date of September 13, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 13, 2005:

> "All reference to Patent No. 6,942,135 to EDWARD C. VILLELA, ET AL. of NEW JERSEY for NAIL GUN DEPTH CONTROL SPACER appearing in the Official Gazette of September 13, 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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Paper No. None

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OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of Jerry Anthony Davis Application No. 10/806,696 Filed: March 23, 2004 Attorney Docket Number: TH-2624 (US) Title: WRENCH	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed January 17, 2006, pursuant to 37 C.F.R. §1.137(a), which is properly treated as a petition pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 11, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 12, 2005.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The present petition was received on January 17, 2006, along with the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the concurrently submitted amendment can be processed.

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

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

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SIERRA PATENT GROUP, LTD.
1657 HWY 395, SUITE 202
MINDEN, NV 89423

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OFFICE OF PETITIONS

In re Application of :
KUMAR :
Application No.: 10/806,721 : DECISION ON PETITION
Filing Date: March 22, 2004 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: CISCO-3507COA :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 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 June 30, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 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 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.

With further regard to the statement in the petition that "the entire delay from the date of receipt of the Notice of Allowance to the filing of the instant petition was unintentional", this statement is interpreted as 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 under 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.

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.

BryanLin

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

HARRINGTON & SMITH LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:
Franklin Anthony Holub	:
Application No. 10/806,731	: DECISION GRANTING PETITION
Filed: March 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 003C.0030.U1 (US)	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Oct10\806731.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.*

SPE : G. Welch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/13/07

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/806,241 Patent No.: 7089725

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

Jenny T. Wilde
SPE

3765
Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WILLIAM S. GALLIANI
COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

COPY MAILED
MAY 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul J. Chang, et al.	:	
Application No. 10/806,746	:	DECISION ON REQUEST
Filed: March 22, 2004	:	TO WITHDRAW
Attorney Docket No. STEN.P0001C	:	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 9, 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 William S. Galliani on behalf of himself and all attorneys of record who are associated with Customer No. 23419.

All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

It is noted that the correspondence address of record has been changed by the assignee. Accordingly, a copy of the decision is being mailed to the correspondence address provided by the assignee, as well as the address noted in the request to withdraw.

Applicant is reminded that there is no attorney/agent of record in the application at this time and that there is an outstanding Office action mailed April 28, 2006, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

JOHN F. VODOPIA
SENIOR INTELLECTUAL PROPERTY COUNSEL
PHILIPS INTELLECTUAL PROPERTY &
STANDARDS PHILPS ELECTRONIC NORTH AMERICA COPORATION
PO BOX 3001
345 SCARBOROUGH ROAD
BRIARCLIFF MANOR, NY 10510-8001

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Alexandria, VA 22313-1450
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FOLEY & LARDNER
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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DEC 05 2006

OFFICE OF PETITIONS

In re Application of	:
Jayprakash Bhatt et al	:
Application No. 10/806,749	: DECISION GRANTING PETITION
Filed: March 23, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 8485AFP-DIV	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and the publication fee (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 9, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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225 FRANKLIN ST
BOSTON, MA 02110

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FEB 02 2005

OFFICE OF PETITIONS

In re Application of
Adams, Flynn, Kelly, Makara, Mason,
Moalemi, Nash, Winter, Zheng
Application No.: 10/806,758
Filed: March 22, 2004
Attorney Docket No: 10845-044001
For: METHOD OF SCREENING FOR TARGET LIGANDS

DECISION ACCORDING
RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 19, 2004 (certificate of mailing dated November 15, 2004.)

The petition is **GRANTED**.

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

The above-cited application was filed on March 22, 2004, without a properly executed declaration. On June 14, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed declaration and a surcharge for the late filing of oath or declaration. The instant petition was filed on November 19, 2004, with a request for an extension of time within the third month.

Petitioner has shown that inventor Flynn has expressly refused to join the prosecution of the above-identified application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

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In re Patent No. 7299114	:	
Issue Date: 11/20/2007	:	
Application No. 10/806759	:	ON PETITION
Filed: 03/23/2004	:	
Attorney Docket No. 71310	:	

This is a decision on the petition filed April 24, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Paper No. None

KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO CA 92192-8289

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Tim Forrester, Jorge Fabrega-Sanchez, and
Gregory Poilasne
Application No. 10/806,763
Filed: March 22, 2004
Attorney Docket No. UP1 00116
Title: SYSTEMS AND METHODS FOR
CONTROLLING OUTPUT POWER IN A
COMMUNICATION DEVICE

DECISION ON PETITION UNDER
37 C.F.R. §1.47(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 12, 2004.

It is noted that Petitioner is not listed as an attorney of record.

On March 22, 2004, the application was deposited without an executed declaration, identifying Tim Forrester, Jorge Fabrega-Sanchez, and Gregory Poilasne as joint inventors. On June 8, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

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.

With the instant petition, Petitioner has submitted the petition fee and surcharge, a declaration which has been executed by the latter two joint inventors, and a copy of a letter which was purportedly sent to the non-signing joint inventor.

Petitioner has met requirements (1) and (2) 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 fourth requirement above, Petitioner has submitted a copy of a letter, with no accompanying statement which sets forth that the letter was ever sent to the non-signing inventor. This is not acceptable, as the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

Regarding the fifth requirement, as the last known address has not been set forth, the Office cannot determine whether the submitted declaration is acceptable.

Therefore, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(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 may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

---

2 See MPEP 409.03(e).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO CA 92192-8289

COPY MAILED

DEC 29 2004

OFFICE OF PETITIONS

In re Application of
Tim Forrester, Jorge Fabrega-Sanchez, and
Gregory Poilasne
Application No. 10/806,763
Filed: March 22, 2004
Attorney Docket No. UP1 00116
Title: SYSTEMS AND METHODS FOR
CONTROLLING OUTPUT POWER IN A
COMMUNICATION DEVICE

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 November 12, 2004.

On March 22, 2004, the application was deposited without an executed declaration, identifying Tim Forrester, Jorge Fabrega-Sanchez, and Gregory Poilasne as joint inventors. On June 8, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

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.

With the original petition, submitted on August 12, 2004, Petitioner submitted the petition fee and surcharge, a declaration which has been executed by the latter two joint inventors, and a copy of a letter which was purportedly sent to the non-signing joint inventor.

The original petition was dismissed via the mailing of a decision on September 14, 2004 for failure to establish the final three requirements above.

With this renewed petition, Petitioner has supplied further information and documentation such that these three requirements have been met.

As such, the renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the 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 Power of Attorney has been updated and made of record.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Tim Forrester
11082 Mulgrave Road
San Diego, CA 92131

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DEC 29 2004

OFFICE OF PETITIONS

In re Application of
Tim Forrester, Jorge Fabrega-Sanchez, and Gregory Poilasne
Application No. 10/806,763
Filed: March 22, 2004
Attorney Docket No. UP1 00116
Title: SYSTEMS AND METHODS FOR CONTROLLING OUTPUT POWER IN A COMMUNICATION DEVICE

LETTER

Dear Mr. Forrester:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO CA 92192-8289

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIOSENSORS INTERNATONAL USA
20280 SW ACACIA STREET
SUITE 300
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
Carlos Marques Cabrera	:	
Application No. 10/806,768	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 00101US01	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, mailed April 26, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice to File Missing Parts, mailed June 9, 2004. This Notice set a two (2) month extendable period for reply to file $43 for additional claims. The application became abandoned on August 10, 2004. A Notice of Abandonment was mailed on March 29, 2006.

Petitioner contends that he did timely file the $43 for additional claims. In support, petitioner has included a copy of a "Response to Notice to File Missing Parts", with a Certificate of Mailing dated July 2, 2004. However, in addition to being directed to the instant application, the Response indicated that it was also directed to application no. 09/549,779.

As set forth in the Manual of Patent Examining Procedure § 724.05:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Here, the response did contain the correct identifying information. Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended. Moreover, a review of Office records indicates that the Office received the $43 on July 7, 2004.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 5 2004

In re Application of	:	
Lawrence. G. Hopkins	:	
Application No. 10/806,775	:	DECISION ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. Hunt:FanArr1	:	

This is a decision on the petition to make special originally filed on March 22, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioner has satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3753 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

LAW OFFICE OF KAREN DANA OSTER, LLC
PMB 1020
15450 SW BOONES FERRY ROAD #9
LAKE OSWEGO, OR 97035

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SILICON VALLEY PATENT GROUP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Lawrence G. Hopkins	:	
Application No. 10/806,775	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. HTR007-1P-US	:	

This is a decision on the petition, filed July 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3745 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).

DATE: 8/21/07 APPLICATION NUMBER: 10/806,787

DOC CODE: Pet.dec.TC DOC DATE: 8-22-07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Prashant Sethi, et. al.	:	
Application No. 10/806,787	:	ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. 42P18870	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 12, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 27, 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 and one (1) replacement sheet of a drawing containing Figure 3; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney filed on March 9, 2007 and on March 12, 2007, has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 2181, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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
10/806,787	03/22/2004	Prashant Sethi	42P18870

CONFIRMATION NO. 2369

OC000000025486082

21906
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Date Mailed: 08/21/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

for Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

37101
Law Office of Michael P. Eddy
126626 High Bluff Drive
Suite 300
San Diego, CA 92130

COPY MAILED
JUL 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Dave Whitmer	:	
Application No. 10/806,797	:	DECISION ON PETITION
Filed: March 23, 2004	:	TO WITHDRAW
Attorney Docket No. 3727	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael P. Eddy on behalf of all attorneys or record who are associated with customer No. 37101

All attorneys/agents associated with the Customer Number 37101 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 Dave Whitmer at the address below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: Dave Whitmer
141 Ventura Avenue
Oxnard, CA 93035

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)
6,904,842	2005-06-14	10/806,799	2004-03-23	AMANO-002G

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	/Bruce B. Brunda/	Date (YYYY-MM-DD)	2009-12-21
Name	Bruce B. Brunda	Registration Number	28497

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6904842
Issue Date: June 14,2005
Application No. 10806799
Filed: March 23,2004
Attorney Docket No. AMANO-002G

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21,2009 . 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.

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wk

Mailed: 2-28-07

In re application of Katz et al. Serial No. 10/806,825 Filed: March 22, 2004 For: Thermolytic Synthesis of Inorganic Oxides Imprinted With Functional Moieties	: : : : :	DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed October 17, 2006. The petition was filed on December 15, 2006.

On October 17, 2006, a final office action was mailed after applicants filed a Request for Continued Examination (RCE). Upon filing of the RCE applicants submitted arguments against the rejections of record and amended the claims in response to the rejections. The Examiner issued a first action final rejection of all claims, stating that the finality of the rejections was proper since these claims could have been finally rejected in the present application if presented earlier. Applicants assert that they are seeking to respond to a complicated set of rejections involving six references, after an immediately previous final rejection. The first action final rejection in the RCE has placed an unfair prosecution burden on the applicants.

DECISION

A review of the circumstances indicates that the final rejection of October 17, 2006 was not proper .

The petition for withdrawal of finality is **GRANTED.**

The action of October 17, 2006 is now a non-final rejection. However the period for response to the non- final rejection will be set to the original mail date of October 17, 2006.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Joel Ackerman
Townsend & Townsend &Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

Mail Date: 04/21/2010

Applicant	: T. Jeffrey Barany	: DECISION ON REQUEST FOR
Patent Number	: 7650306	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/806,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS CA 92653

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APR 16 2008

OFFICE OF PETITIONS

In re Application of
SHERMAN AND MOLLENAUER
Application No. 10/806,840
Filed: 03/22/2004
Attorney Docket No. 212/369
Title: MODULAR CPR ASSIST DEVICE TO HOLD AT A THRESHOLD OF TIGHTNESS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed February 20, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of the requirement of 37 CFR 1.64 and 1.67 that the named inventor re-execute the declaration.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and do not apply to the re-execution of another oath or declaration by a signing inventor. See MPEP 603. Rather, the remedy is a petition under 37 CFR 1.183 (and fee), requesting waiver of the requirement of 37 CFR 1.64 and 1.67 that the inventor re-execute the oath or declaration. The petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached.

In this instance, joint inventor, Darren R. Sherman, signed the originally filed declaration in the present application. However, in the final Office action of June 14, 2007, the Examiner stated that the declaration was defective and required a new declaration in compliance with 37 CFR 1.67(a). On November 14, 2007, applicants filed, inter alia, an extension of time for response within the second month and a declaration lacking the signature of Mr. Sherman. On November 28, 2007, the Office mailed a Notice of Allowability requiring Mr. Sherman's signature on the declaration.

Applicants assert that Mr. Sherman refuses to re-execute the declaration. Unfortunately, the declaration is unacceptable because it does not identify Mr. Sherman's residence or mailing address. The Office notes that the declaration must identify the mailing address, and the residence if an

inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **Failure to timely respond will result in abandonment of the application**. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

The current fee for filing a petition under 37 CFR 1.183 is $400.00. The Office will charge the difference of $200.00 to the Deposit Account, as authorized.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUITE 400
LAGUNA HILLS CA 92653

COPY MAILED

MAY 16 2008

In re Application of	:	
SHERMAN AND MOLLENAUER	:	
Application No. 10/806,840	:	DECISION ON PETITION
Filed: 03/22/2004	:	
Attorney Docket No. 212/369	:	
Title: MODULAR CPR ASSIST DEVICE TO	:	
HOLD AT A THRESHOLD OF TIGHTNESS	:	

This is a decision on the renewed petition under 37 CFR 1.183, filed April 25, 2008, and supplemented on May 15, 2008, seeking waiver of the requirement of 37 CFR 1.64 and 1.67 that the previously signing inventor re-execute the supplemental declaration.[1]

In present application, joint inventor, Darren R. Sherman, signed the originally filed declaration in the present application. However, in the final Office action of June 14, 2007, the Examiner stated that the declaration was defective and required a new declaration in compliance with 37 CFR 1.67(a). On November 14, 2007, applicants filed, inter alia, an extension of time for response within the second month and a declaration lacking the signature of Mr. Sherman. On November 28, 2007, the Office mailed a Notice of Allowability requiring Mr. Sherman's signature on the declaration.

Applicants have provided an acceptable declaration on May 15, 2008, signed by join inventor Mollenauer on behalf of himself and the non-signing inventor. Additionally, applicants have shown that Mr. Sherman refuses to re-execute the declaration.

In view of the efforts recounted in the petition to obtain the signature of Mr. Sherman, it is agreed that justice would be served by waiving the requirement for his signature on a supplemental declaration. Accordingly, the petition is **granted.**

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

The declaration has been accepted on petition. This application does not have any Rule 1.47 status and no such status should appear in the record. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

This matter is being referred to the Office of Patent Publication for issuance of the patent.

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
David A. Goldman	:	
Application No. 10/806,880	:	
Filed: March 23, 2004	:	ON PETITION
Attorney Docket No.:	:	
20060/10001D	:	

This is a decision on the Petition for Withdrawal of Abandonment, filed July 1, 2005. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed November 17, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the above-identified application became abandoned February 18, 2005. A Notice of Abandonment was mailed June 10, 2005.

Applicant's Assertion

Applicant avers non-receipt of the non-final Office action. In support, Applicant has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Applicant has demonstrated by a preponderance of the evidence that the non-final Office action was not received.

The Notice of Abandonment is hereby withdrawn.

A refund of the petition fee has been credited to deposit account 50-2455 as authorized in the instant petition.

The application file is being referred to Technology Center 3765 for re-mailing of the non-final Office action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **November 14,2007**

TO SPE OF : ART UNIT **2879**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/806,895** Patent No.: **7005852 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The request is approved since it is consistent with the Examiner's response to the amendment filed under 37 CFR 1.312

/Nimeshkumar D. Patel/ 2879

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-11-06

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6952012

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments:

SPE

2881
Art Unit

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

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OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Graf et al.	:	
Application No. 10/806,910	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 2003-0658.02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2625 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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FOX ROTHSCHILD, LLP
997 LENOX DRIVE
LAWRENCEVILLE NJ 08648

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MAR 3 1 2008

In re Application of	:
Titus et al.	:
Application No. 10/806915	: DECISION ON PETITIONS
Filed: 03/23/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 48170.00040/PC832	:

This is a decision on the "PETITION FOR UNINTENTIONALLY DELAYED CLAIM OF PRIORITY" which is treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 24, 2008, 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 petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) 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.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

It is noted that the amendment filed with the present petition incorrectly lists the filing date of prior-filed provisional Application No. 60/132,021 as April 30, 1997 (*sic*). A review of USPTO records, however, reveals that the filing date of this application is April 30, 1999. While the claim of benefit has been entered in Office records, petitioners may wish to file an amendment to correctly reciting the filing date of the above-identified application.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1636 for consideration by the examiner of the claim under 35 U.S.C. §§120, 365(c), and 119(e) of the prior-filed nonprovisional, international, and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/806,915	03/23/2004	1636	1960	48170.00040/PC832	43	9

CONFIRMATION NO. 4427

CORRECTED FILING RECEIPT

67676
FOX ROTHSCHILD, LLP
997 LENOX DRIVE
LAWRENCEVILLE, NJ 08648

OC000000029052449

Date Mailed: 03/31/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Frances Louisa Titus, Atlanta, GA;
Jeffrey C. Marx, Germantown, TN;
Scott D. Boden, Atlanta, GA;
Sangwook T. (Tim) Yoon, Atlanta, GA;
Susan Drapeau, Cordova, TN;

Power of Attorney: The patent practitioners associated with Customer Number 29880

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/456,551 03/24/2003
and is a CIP of PCT/US00/11664 04/28/2000
which claims benefit of 60/132,021 04/30/1999
This application 10/806,915
is a CIP of 09/959,578 06/21/2002 PAT 7,045,614
which is a 371 of PCT/US00/11664 04/28/2000
which claims benefit of 60/132,021 04/30/1999 *
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/806,915**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Intracellular delivery of osteoinductive proteins and peptides

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TIMOTHY T. PATULA
PATULA & ASSOCIATES, P.C.
14TH FLOOR
116 S. MICHIGAN AVENUE
CHICAGO, IL 60603

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
David Paul Boden et al	:	
Application No. 10/806,922	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 5432/55399	:	

This is a decision on the petition under 37 CFR 1.173(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 4, 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 5, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SHOOK, HARDY & BACON L.L.P.
CHASE TOWER, SUITE 1600
600 TRAVIS STREET
HOUSTON TX 77002-2911

In Re Application of
Yin L. Cheung, et al.
Application Serial No. 10/806,980
Filed: March 22, 2004
For: **SYSTEM AND METHOD FOR ANALYZING AND IMAGING THREE-DIMENSIONAL VOLUME DATA SETS USING A THREE-DIMENSIONAL SAMPLING PROBE**

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed March 23, 2004, requesting acceptance of color drawings and color photographs.

The petition requests that the color drawings, noted as figures 15 and 16 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

" The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

Petitioner has met the requirements set forth above. Accordingly, the petition is **Granted**.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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TECHNOLOGY CENTER 2600

SHOOK, HARDY & BACON L.L.P.
CHASE TOWER, SUITE 1600
600 TRAVIS STREET
HOUSTON TX 77002-2911

In re Application of
Yin L. Cheung, et al.
Application No. 10/806,980
Filed: March 22, 2004
For: **SYSTEM AND METHOD FOR ANALYZING AND IMAGING THREE-DIMENSIONAL VOLUME DATA SETS USING A THREE-DIMENSIONAL SAMPLING PROBE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed March 22, 2004 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is 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. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner has met 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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TECHNOLOGY CENTER 2600

CRAIN CATON & JAMES
FIVE HOUSTON CENTER
17TH FLOOR
HOUSTON TX 77010-4035

In re Application of
Yin L. Cheung, et al.
Application No. 10/806,980
Filed: March 22, 2004
For: **SYSTEM AND METHOD FOR ANALYZING AND IMAGING THREE-DIMENSIONAL VOLUME DATA SETS USING A THREE-DIMENSIONAL SAMPLING PROBE**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed June 23, 2005, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed June 25, 2004, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document in question will not be available to the public during prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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DEC 2 3 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Shinichiro Yamashita	:	
Serial No.: 10/806,986	:	DECISION ON PETITION
Filed: March 22, 2004	:	
For: Storage System, Control Method for	:	
Storage System, and Storage Control	:	
Unit	:	

This is in response to the original petition applicant filed on January 24, 2005 and the resubmission filed October 6, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

The delay in responding to the Petition is truly regretted.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Welton E. White	:	DECISION GRANTING
Application No. 10/806,996	:	PETITION
Filed: March 22, 2004	:	
Attorney Docket No. H0006062-1065	:	

This is a decision on the paper styled "PETITION TO ACCORD FILING DATE" filed July 23, 2004, requesting that the above-identified application be accorded a filing date of March 22, 2004, rather than the presently accorded filing date of March 23, 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 22, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicant provided a copy of the Express Mail label, receipt No. ER207412704US, showing a Date-In of March 22, 2004. The same Express Mail receipt number appears on the copy of the original application transmittal submitted with the instant petition. Applicant requests that the application be accorded a filing date of March 22, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 22, 2004. Accordingly, the instant application is entitled to a filing date of March 22, 2004, and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 3746 for examination in due course with a filing date of March 22, 2004.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: YAGAWA
Application No. 10/806,998
Filed: March 24, 2004
For: DISTRIBUTED DATA MANAGEMENT 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 01 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 01 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The statements for independent claims 12, 20, 24, and 27 state that essentially the entirety of each claim is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description. The statements for independent claims 1 and 18 in effect state that essentially the entirety of each claim is not taught. Again, this is not a sufficient detailed description. The statement for independent claim 1 recites essentially all of the limitations of claim 1 except for the limitation that the data object is copied to the second storage system depending on content-based information associated with the data object. While this limitation is not expressly recited, it is implicit in the statements since the profile information is based on the content of the data object and the copying is based at least in part on the profile information. The statement for claim 18 indicates that the copying is based at least in part on the profile information but fails to expressly recite the limitations that the profile information is based on the content of the data object and that the data object is copied to the second storage system depending on content-based information associated with the data object. Again, however, the limitations not expressly recited are implicit in the statement. Claim 18 indicates that the profile information is based on the content of the data object and that the data object is copied based at least in part on the profile information. Thus, the data object is copied depending on content-based information associated with the data object.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: YAGAWA
Application No. 10/806,998
Filed: March 24, 2004
For: DISTRIBUTED DATA MANAGEMENT SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 03 October 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. The statements for each of the references deemed most closely related setting forth how the claimed subject matter is patentable over the references (found on pages 5-12 of the petition) are sufficient. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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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
10/807,000	03/23/2004	2811	1126	5649-1266	12	35	4

CONFIRMATION NO. 2826

CORRECTED FILING RECEIPT

OC000000013218314

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 07/13/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ki-Chul Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Young-Sun Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Gab-Jin Nam, Seoul, KOREA, REPUBLIC OF;
Sung-Tae Kim, Seoul, KOREA, REPUBLIC OF;
Thomas Jongwan Kwon, Gyeonggi-do, KOREA, REPUBLIC OF;
Han-Mei Choi, Seoul, KOREA, REPUBLIC OF;
Jae-Soon Lim, Seoul, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-42171 06/26/2003

If Required, Foreign Filing License Granted: 06/04/2004

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit devices with metal-insulator-metal capacitors and methods of forming the same

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Alexandria, VA 22313-1450
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CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
James D. Logan :
Application No. 10/807,012 :
Filed: March 23, 2004 :
Attorney Docket No. E-07 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed February 22, 2005. Accordingly, this application became abandoned on May 23, 2005.

The file is being forwarded to Technology Center 2800 for review of the amendment, filed September 1, 2005.

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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AUG 1 1 2008

Steven J. Koundakjian
Post Office Box 5190
Hemet CA 92544-0190

In re Application of Byung Bae PARK Application No. 10/807,015 Filed: March 22, 2004 Attorney Docket No. H4-C14	DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 2, 2007.

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 remains unchanged.

The application became abandoned on October 5, 2007 for failure to reply timely to a Restriction Requirement mailed September 4, 2007.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052 or in her absence the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

Mail Date: 04/20/2010

Applicant	: David Feygin	: DECISION ON REQUEST FOR
Patent Number	: 7625211	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/807,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1574** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,025	03/22/2004	Zia Ur Rehman	200315570-1	2239

22879 7590 02/22/2006

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SHOSHO, CALLIE E

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 02/22/2006

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
www.uspto.gov

Mailed:

In re Application of:
Rehman et al.
Serial Number: 10/807,025
Filed: March 22, 2004
For: Pigmented Ink-Jet Inks with Improved Print Quality And Reliability

This is a decision on the petition filed 2/10/05 to correct inventorship under 37 CFR 1.48(a). It is noted that applicants have met the requirements of (i) a request to correct the inventorship that sets forth the desired inventorship change, (ii) a statement from each person being added as an inventor that the error occurred without deceptive intention on his or her part, (iii) the fee set forth in 37 CFR 1.17(i) and (iv) the written consent of the existing assignee.

However, it is noted that applicants have not met the requirement of an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Further, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. In the petition filed 2/10/05, while individual declarations were executed, they were combined into one declaration. An individual declaration was not submitted by inventor Patricia A Wang. Further, the oath or declaration executed by inventor Patricia A Wang does not contain a complete listing of all inventors. Specifically, inventor Zia Rehman is not included in the listing of inventors in the oath or declaration executed by Inventor Wang.

The petition is **DISMISSED**.

Callie Shosho
Primary Examiner, AU 1714
Technology Center 1700

Hewlett-Packard Company
1000 NE Circle Blvd., m/s 422B
Corvallis, OR 97330

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MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Gomes et al.	:	
Application No. 10/807,032	:	DECISION REFUSING STATUS
Filed: March 23, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 066470-011	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 6, 2004 (certificate of mailing dated August 3, 2004).

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 23, 2004, without an executed oath or declaration. Accordingly, on June 4, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 6, 2004 (certificate of mailing dated August 3, 2004), applicants filed the present petition, a declaration signed by three of the four joint inventors, and paid the necessary fees.

In the Affidavit of Patrice Jeffries, she stated that Mr. Mishra failed to respond to two written requests to execute the declaration. Ms. Jeffries further stated that on July 8, 2003,

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she sent Mr. Mishra a letter and the "patent document," and requested his signature. Ms. Jeffries asserts that Mr. Mishra did not respond to the requests.

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 items (1) and (2) as set forth above.

As to item (1), Ms. Jeffries states that a "patent document" was mailed to the nonsigning inventor. It is unclear from the record whether Mr. Mishra was presented with the complete application papers. Unless Mr. Mishra 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 the 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 Mr. Mishra, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the country of citizenship, mailing address and residence of inventor Mishra. The Office notes that the oath or declaration must identify the country of citizenship of each inventor. See 37 CFR 1.63(a)(3). Additionally, the declaration must identify "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1).

Accordingly, to correct the deficiencies, applicants must submit a declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the correct mailing address and citizenship of each inventor and is signed by the signing inventors on behalf of the nonsigning inventors, Mr. Mishra.

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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: Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589 (after September 27, 2004 (571) 272-3211).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Gomes et al.	:	
Application No. 10/807,032	:	DECISION REFUSING STATUS
Filed: March 23, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 066470-011	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 31, 2005 (certificate of mailing January 21, 2005). Applicants obtained a two-month extension of time to respond. Accordingly, the renewed 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).

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 (2) as set forth above.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. As stated in present petition, applicants

amended the declaration to include the country of citizenship, mailing address and residence of inventor Mishra. Specifically, applicants typed the required information as to inventor Mishra on the previously executed declaration. The Manual of Patent Examining Procedure states: "The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed." MPEP 602.01. "If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required." Id.

As stated above, applicants are not permitted to amend an executed declaration. Accordingly, applicants must submit a new declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the correct mailing address and citizenship of each inventor and is signed by the signing inventors on behalf of the nonsigning inventors, Mr. Mishra.

A second petition fee is not necessary. Accordingly, the $200.00 petition fee will be refunded to Deposit Account No. 50-1946.

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: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

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
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www.uspto.gov

McDermott, Will & Emery
Suite 2400
2049 Century Park East
Los Angeles CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Gomes et al.	:	DECISION ACCORDING STATUS
Application No. 10/807,032	:	UNDER 37 CFR 1.47(a)
Filed: March 23, 2004	:	
Attorney Docket No. 066470-0011	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 18, 2005.

The petition is granted.

Petitioner has shown that Sanjeev Mishra, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to Technology Center Art Unit 2167.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Sanjeev Mishra
2205 N. Grandview
Orange, CA 92867

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APR 05 2005

OFFICE OF PETITIONS

In re Application of	:	
Gomes et al.	:	LETTER
Application No. 10/807,032	:	
Filed: March 23, 2004	:	
Attorney Docket No. 066470-0011	:	

Dear Mr. Mishra:

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

McDermott, Will & Emery
2049 Century Park East, Suite 2400
Los Angeles, CA 90067

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Paper No.

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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OFFICE OF PETITIONS

In re Application of	:	
Shirakawa et al.	:	
Application No. 10/807,052	:	DECISION ON PETITION
Filed: March 22, 2004	:	
Attorney Docket No. P/1596-74	:	

This is a decision on the "PETITION UNDER 37 C.F.R. 1.10 AND 1.182 FOR CORRECTED FILING RECEIPT," filed October 18, 2004, requesting that the above-identified application be accorded a filing date of March 22, 2004, rather than the presently accorded filing date of March 23, 2004.

On July 30, 2004, applicants previously attempted to correct the filing date by way of a request for corrected filing receipt. By letter mailed August 26, 2004, petitioners were advised that relief was properly sought by petition pursuant to 37 CFR 1.10, and such a petition requires a copy of the Express Mail mailing label.

In support of the petition, applicants submit a copy of the official notation by the USPS obtained from the official USPS website, indicating that the "Express Mail" package, having the label EV34 3682 980US, had "ACCEPTANCE, March 22, 2004, 8:28 pm, NEW YORK, NY 10199" and was "ENROUTE, March 22, 2004, 10:29 pm," and was delivered to the Patent Office at 9:09 am on March 24, 2004.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).
>
> (Emphasis supplied).

Paragraph (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.

The instant petition was filed promptly within the meaning of § 1.10(c)(1). A review of the application papers presently accorded a filing date of March 24, 2004, reveals that "Express Mail" mailing label No. EV34 3682 980US was placed on the application transmittal prior to the original mailing.

37 CFR § 1.10(c)(3) requires both a true copy of the "Express Mail" mailing label showing the date-in and any other official notation by the USPS relied on to show the date of deposit. Thus, the Office requirement for a true copy of the "Express Mail" mailing label was appropriate. However, petitioner has not provided a copy of the "Express Mail" mailing label, as requested and as required under § 1.10(c)(3).

Nonetheless, the USPS prepared "Track & Confirm" record states that the package was "ENROUTE, March 22, 2004, 10:29 pm," and thereby, corroborates petitioner's claim of deposit on March 22, 2004. Furthermore, the evidence does not contravene a conclusion that the "Express Mail" package was sent via the USPS Express Mail "Post Office to Addressee" service as required by 37 CFR 1.10. (The Express Mail mailing label would show whether the package was sent via "Post Office to Addressee" service.) **Petitioner must advise the Office if the "Express Mail" package was not sent via "Post Office to Addressee" service as compliance with § 1.10 would not then be found.**

Given the evidence, the requirement for a copy of the "Express Mail" mailing label is *sua sponte* waived.

In view thereof, the petition is **GRANTED**.

No petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to March 22, 2004** and **issuance of a corrected filing receipt**.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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
10/807,052	03/22/2004	1762	900	P/1596-74	3	20	2

CONFIRMATION NO. 2685

CORRECTED FILING RECEIPT

OC000000014958092

000002352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Date Mailed: 01/13/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hajime Shirakawa, Horikawa-dori, JAPAN;
Hiroaki Uchida, Horikawa-dori, JAPAN;
Akira Morita, Korikawa-dori, JAPAN;

Assignment For Published Patent Application

Dainippon Screen Mfg. Co., Ltd..

Power of Attorney: The patent practitioners associated with Customer Number **2352**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-080369 03/24/2003

If Required, Foreign Filing License Granted: 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/807,052

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Substrate treating method and apparatus

Preliminary Class

427

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 14, 2006

TO SPE OF : ART UNIT 2821 Jimmy Vu

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/807078 Patent No.: 7067981 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**.

Antonio Johnson

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: _____

Douglas K. Ow

SPE

2821

Art Unit

PTOL-306 (REV. 7/03)

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
attn: VDO-MDS docketing migration
ISELIN, NJ 08830

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
John E. Makaran	:	
Application No. 10/807,086	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 2003 P 04236 US 01	:	

This is a decision on the petition under 37 CFR 1.137(b), on October 23, 2007, to revive the above-identified application.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Rashmi Raj appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an election; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3729 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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AUG 0 4 2009

John M. Card
Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of Bauer et al.

Appl. No. 10/807,088
Filed: March 23, 2004
For: BODY STATE ESTIMATION OF A VEHICLE

PETITION TO WITHDRAWN RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on Applicant's Petition under 37 CFR 1.144 filed on April 21, 2009 to withdrawn the Restriction Requirement within Office Action dated August 01, 2008.

The Petition is **GRANTED**.

DISCUSSION

Restriction Requirement was made in Office action dated August 01, 2008 under 35 USC 121 between two inventions:

> Group I: Claims 1-3, 5, 7, 9, 11 are drawn to a system for estimating body states of a vehicle comprising, classified in class 701/4, 38.
>
> Group II: Claims 18-24 are drawn to a system for estimating body states of a vehicle comprising, classified in class 702/141,142, 145, 147, 158.

The restriction requirement indicated that:

Inventions (I) and (II) are directed to related inventions. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.050). In the instant case, the inventions as claimed have a materially different design, mode of operation, function, or effect. That is the filter in invention (II) has a materially different design, mode of

operation, function, or effect as compared to the filter in invention (I). Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

The petitioner argued that:

The Restriction Requirement is improper. The inventions of independent claims 1 and 18 are connected in at least one of design, operation, or effect. The inventions are connected in all three of design, operation, and effect.

Inventions (I) and (II) are connected in design. Each of the independent claims of Inventions (I) and (II), claims 1 and 18, is directed toward a system for estimating body states of a vehicle. Both claims recite a first linear accelerator and a second linear accelerometer mounted to the vehicle in separate locations from each other, the first and second linear accelerometers being configured to measure the acceleration of the of the vehicle in a first direction and generate measured first and second linear acceleration signals based on the acceleration of the vehicle in the first direction, the measured first and second linear acceleration signals defining a first set of linear acceleration signals. In addition, both claims recite a third linear accelerometer and a fourth linear accelerometer mounted to the vehicle in separate locations from each other, the third and fourth linear accelerometers being configured to measure acceleration of the vehicle in a second direction and generate measured third and fourth linear acceleration signals based on the acceleration of the vehicle in the second direction, wherein the second direction is different from the first direction, the measured third and fourth linear acceleration signals defining a second set of linear acceleration signals. Furthermore, both claims recite a filter configured to process the first and second set of linear acceleration signals to obtain at least one of a roll rate, a roll angle, and a yaw rate.

Essentially, Invention (II) is substantially similar to Invention (I), except that Invention (II) gives more details about the model that the filter uses to generate at least one of the roll angle, the roll rate, and the yaw rate. These additional details are found in the specification as originally filed. However, since Invention (II) is connected to Invention (I) in design, operation, and effect, and only one of these connections is required to show that a restriction requirement is improper, the present restriction requirement should be withdrawn.

Accordingly, the Petitioner's arguments have been found to be persuasive. The Restriction Requirement filed on August 01, 2008 is hereby withdrawn. Claims 18 to 30 are reinstated and will be subsequently examined along with the other previously examined claims. The appeal will be withdrawn and a non-final office action will be issued in response to the filed Appeal Brief on June 22, 2009 to address newly considered claims 18-30, and previously examined claims.

SUMMARY: The Petition is **GRANTED**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Khoi Tran at (571) 272-6919.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
(571) 272-5250

KT/SM:07/20/09

SM

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500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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APR 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Svendsen et al.	:	DECISION ON APPLICATION
Application No. 10/807096	:	FOR
Filed: 03/22/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10321.200-US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 16, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred one (501) days to five hundred nine (509) days.

The application for patent term adjustment is **DISMISSED**.

On December 16, 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 501 days. On July 16, 2009, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 509 days.

Applicants request reconsideration on the basis that the restriction requirement sent on October 12, 2006, was rescinded in a non-final Office action mailed on October 20, 2006, thereby extending the PTO delay an additional eight (8) days beyond the 14 months provided by 35 U.S.C. 154(b)(1)(A)(i)(I). Applicants maintain that the non-final Office action mailed October 20, 2006 should be used in ascertaining examination delay under 35 U.S.C. 154(b)(1)(A).

[1] PALM records indicate that the Issue Fee payment was also received on July 16, 2007.

Applicants' argument is not persuasive. On October 12, 2006, the Office issued an action as a result of the examination conducted pursuant to 35 U.S.C. 131. The subsequent action in this case does not negate the fact that a first Office action was mailed on October 12, 2006. Accordingly, the period of examination delay was properly calculated based on the October 12, 2006 date.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of five hundred one (501) days is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 07 2006

OFFICE OF PETITIONS

Applicant: Sabelle et al.
Appl. No.: 10/807,162
Filing Date: September 22, 2003
Title: PARA-PHENYLENEDIAMINE DERIVATIVES COMPRISING A CYCLIC DIAZA GROUP SUBSTITUTED WITH A CATIONIC RADICAL, AND USE OF THESE DERIVATIVES FOR DYEING KERATIN FIBERS
Attorney Docket No.: 05725.1345-00
Pub. No.: US 2005/0066451 A2
Pub. Date: March 31, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 31, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Mattingly, Stanger & Malur, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

In re Application of: Hashimoto
Application No. 10/807,173
Filed: 24 March 2004
For: COMPUTER SYSTEM, CONTROL APPARATUS, STORAGE SYSTEM AND COMPUTER DEVICE

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 15 April 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

6/3/05

GO

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Mailed: 5-5-06

In re application of	:	
Tadakatsu Suzuki	:	DECISION ON
Serial No. 10/807,189	:	PETITION
Filed: March 24, 2004	:	
For: Low-Reflective Thin-Film Substrate	:	

This is a decision on the petition filed on March 1, 2006. The petition requests to reset the period of reply due to late receipt of an office action. Applicants received the Notice of Allowance on February 28, 2006. The action carried a mail date of January 11, 2006.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The issue fee was paid on March 15, 2006.

The petition is **DISMISSED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael R. Davis
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
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SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Makoto AOKI
Application No. 10/807,202
Filed: March 24, 2004
For: INFORMATION PROCESSING SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 13, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 13, 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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Knitel :
Application No. 10/807,216 :
Filed: March 22, 2004 : ON APPLICATION FOR
Attorney Docket No. 079811-0158 : PATENT TERM ADJUSTMENT
Title: CAPPUCCINO PREPARATION :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R § 1.705" filed November 4, 2009. This petition is properly treated under 37 CFR 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred six (806) days, not three hundred twenty-eight (328) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

Applicant also requests that a decision on this request for reconsideration of patent term adjustment be deferred or delayed. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

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.

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MAR 21 2005

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

In re Application of	:
J. K. Mehra et al	:
Serial No.: 10/807,221	: PETITION TO MAKE SPECIAL
Filed: March 23, 2004	:
Attorney Docket No.: IPCA	:

This is in response to applicants' petition filed June 23, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Junji NNoguchi, et al. :
Application No.: 10/807, 222 : ON PETITION
Filed: March 24, 2004 :
Attorney Docket No.: XA-10063 :

This is a decision on the petition, filed July 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 4, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2815 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.*

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Donald V. Edwards	:	
Application No. 10/807,225	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. **SIM 04023**	:	

This is a decision on the petition, filed February 6, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 29, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 30, 2006. *See* MPEP 1215.04.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3723.

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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United States Patent and Trademark Office
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August 2005

ANDREWS KURTH LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 300
1701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20006

SEP - 8 2005

In re Application of:
MICHAEL YOUNG ET AL.
Serial No.: 10/807,237
Filed: 24 March 2004
Docket: 151877
Title: SYSTEM AND METHOD FOR A CRADLE-TO-GRAVE SOLUTION FOR INVESTIGATION AND CLEANUP OF HAZARDOUS IMPACTED PROPERTY AND ENVIRONMENTAL MEDIA

DECISION ON PETITION TO MAKE SPECIAL (COUNTERING TERRORISM)

This is a decision on the petition filed on July 7, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

The petition to make the application special is **DISMISSED**.

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

> The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...
>
> Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the technology specific

> requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. *see* §§ 1.56 and 10.18...
>
> *Comment 65:* The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of terrorism is "strained."
>
> *Response:* The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.
>
> 69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

Applicant's statement alleged that the invention concerned improved monitoring of areas which may be affected by terrorist acts.

Applicant's claims are directed towards a method for monitoring contaminant increase at sensor sites, analyzing the data, and reporting the data. While the invention is principally directed towards monitoring escape of hazardous material from waste sites, one embodiment is included in which harmful agents are sought to be detected and, when exceeding the regulatory standards, reported (e.g., page 56 of the instant specification). Applying the standards evidenced in the administrative history of the Rule, the invention appears to be principally directed towards a sensor system for hazardous materials integrated with a reporting system. The main benefit appears to be monitoring areas for hazardous materials, and alerting an operator when concentrations are exceeded.

The sole counter-terrorism aspect appears to consist only of the ability to sense terrorism-specific breaches of a water supply and report such breaches to a controlling authority. However, applicants do not particularly claim any improvement in discerning terrorism-resultant detection events from non-terrorism detection events. For instance, applicant's method does not distinguish between a naturally caused increase in a specific contaminant, and a purposefully and maliciously caused increase in a specific contaminant. This is supported by the general thrust of the invention towards environmental waste sites. The use of currently available regulatory standards as the thresholds for warning indication indicates that no improvement in targeting terrorism-related causes of contamination is contemplated by the instant invention.

Furthermore, the reporting system does not particularly claim any improvement in targeting terrorism-related water fouling warnings to a controlling authority. Applicant's system merely provides a reporting means such as a computer connected to a telecommunication system. While such data may be used by a government agency to find trends in ambient contamination levels (page 56), the same could be said for any generic monitoring system.

The counter-terrorism aspect of this invention appears to be tangential rather than material. Classifying this invention as an anti-terrorism device does not rise to the level of materiality intended by the Rules. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Hien Phan, Special Program Examiner, at (571) 272-1606.

Henry Phan

Hien H. Phan, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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DICKSTEIN SHAPIRO, LLP
1177 AVENUE OF THE AMERICAS (6th Avenue)
NEW YORK, NY 10036-2714

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application of	
Eugene Tewari	
Application No. 10/807,246	DECISION ON PETITION
Filed: March 24, 2004	TO WITHDRAW
Attorney Docket No. T0690.0002	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 18, 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 Richard LaCava on behalf of all attorneys associated with customer number 32172. All attorneys/agents associated with customer number 32172 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

A non final rejection was mailed on June 27, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mr. Eugene Tewari
170 North Wantagh Avenue
Bethpage, NY 11714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/807,246	03/24/2004	Eugene Tewari	T0690.0002

CONFIRMATION NO. 4514

OC000000025578679

32172
DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK, NY 10036-2714

Date Mailed: 08/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Drabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/807,273	:	DECISION GRANTING PETITION
Filed: March 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07977-106004	:	

This is a decision on the petition, filed August 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2871 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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. None

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of Joseph Potter, Kuo Wei Chang, Dennis I. Goldberg, and Julian L. Henley Application No. 10/807,295 Filed: March 24, 2004 Attorney Docket No. 3589-56 Title: ELECTROKINETIC DELIVERY OF MEDICAMENTS	DECISION ON TWO PETITIONS UNDER 37 C.F.R. §§1.48(B) AND 1.182

This is a decision on the two petitions filed concurrently on March 23, 2005 under 37 C.F.R. §§ 1.48(b) and 1.182, to delete the names of two inventors and to change the order of the names of the remaining inventors.

The petition under 37 C.F.R. § 1.48(b):

Petitioner has requested that inventors Christopher H. Porter and V. Lorenzo Porcelli be deleted from the present application due to amendment or cancellation of claims. Petitioner has submitted a request, signed by a party set forth in 37 C.F.R. §1.33(b), to correct the inventorship that identifies the named inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application. The processing fee set forth in 37 C.F.R. § 1.17(i) has been charged to Petitioner's Deposit Account, as authorized in the petition.

As such, the petition under 37 C.F.R. § 1.48(b) is **GRANTED**.

The petition under 37 C.F.R. §1.182:

The fee which is associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the

petition.

As such, the petition under 37 C.F.R. § 1.182 is **GRANTED**.

The order of the names of the inventors has been changed as follows:

Joseph Potter
Kuo Wei Chang
Dennis I. Goldberg
Julian L. Henley

A filing receipt reflecting this change is enclosed.

After this decision is mailed, the application file will be forwarded to the Office of Patent Publications for further processing into a patent.

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

Encl. Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/807,295	03/24/2004	3743	1121	3589-56	15	54	2

CONFIRMATION NO. 3980
CORRECTED FILING RECEIPT
OC000000019313627
OC000000019313627

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 06/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Joseph Potter, Oak Bluffs, MA;
Kuo Wei Chang, Waltham, MA;
Dennis I. Goldberg, Boston, MA;
Julian L. Henley, New Haven, CT;

Assignment For Published Patent Application

Biophoretic Therapeutic Systems, LLC, Framingham, MA

Power of Attorney:

Richard Besha--22770

Domestic Priority data as claimed by applicant

This application is a DIV of 10/245,337 09/18/2002 PAT 6,735,470
which is a DIV of 09/584,138 05/31/2000 PAT 6,477,410

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
US10/807,295

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ELECTROKINETIC DELIVERY OF MEDICAMENTS

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements

of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Shinichi Kurihara	: DECISION ON REQUEST FOR
Patent Number	: 7570762	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/807,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1333** 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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GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Fukui et al.	:	
Application No. 10/807,314	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket Number:	:	
06753.0575	:	

This is a decision on the Petition for Renewal of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 18, 2005. The petition is properly treated as a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

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 May 5, 2005. The Notices set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 6, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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SEIMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Peterson, William A. Jr.	:	
Application No. 10/807,336	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 051252-5050-03	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 27, 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

ROBERT T. CANAVAN
CANAVAN & MONKA LLC
250 STATE ROUTE 28, SUITE 207
BRIDGEWATER, NJ 08807

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of Lunsford, et al. Application No. 10/807,368 Filed: March 22, 2004 Attorney Docket No. 80121-07318	: : : : :	ON PETITION

This is a decision on the petition, filed March 6, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 26, 2006 final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 27, 2006. A Notice of Abandonment was mailed on February 14, 2007.

Applicants have submitted an amendment in reply to the July 26, 2006 final Office action that *prima facie* places this application in condition for allowance, a proper statement of the unintentional nature of the delay in responding to the July 26, 2006 final Office action, and the $1,500.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3732 for consideration of the amendment filed on March 6, 2007.

Telephone inquiries 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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HUNTON & WILLIAMS LLP
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OFFICE OF PETITIONS

In re Application of	:	
Tze Wan Pansy Chung et al	:	
Application No. 10/807,409	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 44904.000606	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, assignee has requested transfer of responsibilities for this application, do not appear to meet any of the conditions set forth in 37 CFR 10.40.

In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to

the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be 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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci for
Petitions Examiner
Office of Petitions

cc: Joseph A. Tessari
Tredegar Film Products
1100 Boulders Parkway
Richmond, VA 23225

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SEP 20 2004

PRESTON GATES ELLIS &ROUVELAS MEEDS LLP
1735 NEW YORK AVE., N.W.
WASHINGTON, DC 20006

In re Application of	:
Wing Cheung et al.	:
Serial No.: 10/807,429	: PETITION TO MAKE SPECIAL
Filed: 23 March 2004	:
Attorney Docket No: 38081-00037	:

This is in response to applicant's petition filed March 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, section X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number 703-872-9306.

Jean F. Vollano

Jean F. Vollano
Special Program Examiner
Technology Center 1600

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JUL 8 2004

PRESTON GATES ELLIS
& ROUVELAS MEEDS LLP
1735 NEW YORK AVE., N.W.
WASHINGTON, DC 20006

In re Application of	:
Wing Cheung et al.	:
Serial No.: 10/807,451	: PETITION TO MAKE SPECIAL
Filed: March 24, 2004	:
Attorney Docket No.: 38081-00036	:

This is in response to applicants petition filed March 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on inventions relating to cancer. There is a $130.00 fee for this petition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore, the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/03/2010

Applicant	: Sukendeep Samra	: DECISION ON REQUEST FOR
Patent Number	: 7334026	: RECALCULATION of PATENT
Issue Date	: 02/19/2008	: TERM ADJUSTMENT IN VIEW
Application No	: 10/807,473	: OF WYETH
Filed	: 03/22/2004	:
		:

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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Paper No.

NIXON PEABODY LLP
CLINTON SQUARE
PO BOX 31051
ROCHESTER, NY 14603-1051

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Deborah L. Chung :
Application No. 10/807,487 :
Filed: March 23, 2004 :
Attorney Docket No. :
19226/2331 (R-5839) :

ON PETITION

This is a decision in response to the Petition for Correction of Filing Date Under 37 CFR 1.10(c), filed August 2, 2004, requesting the application be accorded a filing date of March 23, 2004, instead of the presently accorded filing date of March 22, 2004.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on March 23, 2004. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV138586129US. A review of the Express Mail label, No. EV138586129US, reveals that the "Date In" indicated on the Express Mail label is March 23, 2004. Moreover, the Express Mail label contains a United States Postal Service (USPS) stamp, also dated May 23, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee is necessary.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of :
Steiner, et al. :
Application No. 10/807,517 :
Filed: March 24, 2004 :
Attorney Docket No. P-2762-US3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 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 Comply with Requirements for Patent Applications Containing Nucleotide Sequence or Amino Acid Sequence Disclosures, mailed August 2, 2005, 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 timely reply being received in the Office, this application became abandoned on October 3, 2005. A Notice of Abandonment was mailed on June 5, 2006.

Applicants have submitted a proper reply to the August 2, 2005 Notice, an acceptable statement of the unintentional nature of the delay in responding to the August 2, 2005 Notice, and the petition fee.

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
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CORNING CABLE SYSTEMS LLC
P O BOX 489
HICKORY, NC 28603

In re Application of Alan T. Parsons Application No. 10/807,530 Filed: March 23, 2004 Attorney Docket No. C0037	: : : : :	ON PETITION

This is a decision on the petition, filed July 24, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a 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) was obtained. A Notice of Abandonment was mailed on June 9, 2006. However, on July 24, 2006, the present petition was filed, as well as a Request for Continued Examination (RCE) under 37 CFR 1.114.

Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Therefore, the RCE filed July 24, 2006 is considered improper. Since the RCE was accompanied by an amendment, the reply will be considered under 37 CFR 1.111. The $790 filing fee paid for the improper RCE is being credited to counsel's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment; (2) the petition fee of $1500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2883 for consideration of the amendment filed July 24, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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STAAS & HALSEY LLP
1201 NEW YORK AVENUE, N.W., SUITE 700
WASHINGTON, DC 20005

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APR 17 2008

OFFICE OF PETITIONS

In re Application of :
Naoki Itokawa et al :
Application No. 10/807,535 : ON PETITION
Filed: March 24, 2004 :
Attorney Docket No. 1466.1088

This is a decision on the petition, filed April 16, 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 April 9, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON DC 20005

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JAN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,570,231	:	
Issue Date: August 4, 2009	:	
Application No. 10/807,535	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. **1875.1020**	:	

This is a decision on the petition filed November 25, 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**.

Petitioner states that the correct assignee's name is "Hitachi Plasma Patent Licensing Co., LTD. and Fujitsu Hitachi Plasma Display Limited, Kawasaki (JP)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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SEP 01 2009

: OFFICE OF PETITIONS

In re Application of
Kazuo Nishi et al
Application No. 10/807,543
Filed: March 24, 2004
Attorney Docket No. 12732-0224001

ON PETITION

This is a decision on the petition, filed August 31, 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 August 20, 2009 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MINNEAPOLIS, MN 55440-1022

Mail Date: 05/03/2010

Applicant	: Kazuo Nishi	: DECISION ON REQUEST FOR
Patent Number	: 7652658	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/807,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1500** 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
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SAN FRANCISCO CA 94111-3834

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Reissue Application No 10/807,554 :
Filed: March 22, 2004 :
Original Patent No. 6,406,853 : ON PETITION
Issue Date: June 18, 2002 :
Patentee: Spindler. :
Attorney Docket No.: 02307O-010111US

This is a decision on the petition filed June 17, 2004 under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.53(e) requesting that the above-identified reissue application be accorded a filing date of March 22, 2004 with an indication that all 272 pages of the specification from the patent were present on filing.

The petition is granted.

The above-identified application papers were deposited on March 22, 2004

However, on May 21, 2004 the Office of Initial Patent Examination mailed a formalities letter indicating that while a filing date had been granted to the papers, the papers were informal as they lacked an abstract and, further, that pages 49 (sic, columns) through 270 of the patent file were missing.

In reply, on June 17, 2004, the instant petition was filed, along with the required abstract. Petitioner asserts that all 270 columns of the patent were received by the USPTO and that such was confirmed dueing a telephone conversation with a USTPO employee.

Inspection of the instant IFW records reveals that, in fact , on March 22, 2004 the allegedly missing pages were received by the USPTO and were among those documents scanned into the IFW record. These 110 pages were entitled as APPE (appendix) and by inspection contain columns 49 through 270 of the patent, which as issued contained these pages an appendix. The USPTO regrets the error and inconvenience. The informalities letter is vacated to the extent it indicated that pages 49 through 270 were missing.

The $130 petition fee is being credited to counsel's account.

The undersigned has appended a notation to the APPE document indicating that such contains the allegedly missing columns of specification.

This application is being referred to OIPE for further processing with the abstract filed June 17, 2004, and an indication that all 270 pages (columns) from the original patent were present on filing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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David W Highet Esq
Becton Dickinson and Company
1 Becton Drive
Franklin Lakes NJ 07417

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OFFICE OF PETITIONS

In re Application of
Keane et al.
Application No. 10/807,555
Filed: March 23, 2004
Attorney Docket No. P-4461/2 RI

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 17, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This 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 April 13, 2007. The Notice of Allowance and Issue Fee Due and the Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 14, 2007. A Notice of Abandonment was mailed on August 15, 2007.

Petitioner asserts that the Notice of Allowability mailed April 13, 2007 was never received. Petitioner has also provided a docket report.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office

action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due was not in fact received. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance and Fee(s) Due may have been lost after receipt rather than a conclusion that the Notice of Allowance and Fee(s) Due was lost in the mail.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The Notice of Allowance and Fee(s) due was mailed on April 13, 2007 to the correspondence address of record (Becton Dickinson & Company). It is not clear that the docket records provided are from Becton, Dickinson and Company. Further review also shows that it does not appear that petitioner has been authorized to prosecute the above-identified application. Nor does petitioner appear to work out of the address associated with correspondence address of record. Thus, the statement that the records were reviewed and the Notice of Allowance was not received is not persuassive.

Further, to the extent the correspondence address of record is no longer a valid address due to revocation of power of attorney, or unchanged 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. 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). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner may desire to submit a petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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David W Highet Esq
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OFFICE OF PETITIONS

In re Application of :
Keane et al. :
Application No. 10/807,555 : DECISION ON PETITION
Filed: March 23, 2004 :
Attorney Docket No. P-4461/2 RI :

This is a decision on the renewed petition, filed November 26, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before July 13, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 13, 2007.

Petitioner asserts that the Notice dated April 13, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3744 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of . The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Gramt

Charlema Gramt
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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OFFICE OF COUNSEL CODE OC4
NAVAL SURFACE WARFARE CENTER
INDIAN HEAD DIVISION
101 STRAUSS AVE., BLDG. D-31
INDIAN HEAD, MD 20640-5035

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher R. Karabin et al	:	
Application No. 10/807,574	:	DECISION GRANTING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 95,872	:	

This is a decision on the petition, filed May 16, 2005 and resubmitted on May 19, 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 17, 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 September 22, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 3662.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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INDIAN HEAD, MD 20640-5035

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JUL 25 2008

In re Application of	:	
Spooner, George E. Jr.	:	
Application No. 10/807,583	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 84,040	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3641 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 26 2004

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JUL 26 2004
OFFICE OF THE DIRECTOR
TC 3600

HENDRICKS SLAVIN AND HOLMES LLP
840 Apollo Street
Suite 200
El Segundo, CA 90245

In re application of Robert B. Dybdal et al Application No. 10/807,587 Filed: March 22, 2004 For: METHODS AND SYSTEMS FOR TRACKING SIGNALS WITH DIVERSE POLARIZATION PROPERTIES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on March 22, 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. Pidhayny indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

RAR/pav: 7/22/04

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DIW Sep-07

Jonathan Spangler
2556 VIA TORINA
DEL MAR CA 92014

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Dennis West	:	
Application Number: 10/807611	:	DECISION ON PETITION
Filing Date: 03/24/2004	:	
Attorney Docket Number:	:	
NUTO:001	:	

This is a decision on the petition filed on 16 July, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 31 December, 2005, for failure to file a proper reply to the final Office action mailed on 30 September, 2005, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 28 April, 2006.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3742 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of
Hong Liu et al.
Application No. 10/807,613
Filed: March 23, 2004
Attorney Docket No. 021288-002710US

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 9, 2007, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph R. Snyder and all attorneys/agents associated with customer number 20350 has been revoked by the assignee of the patent application on March 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Genomics Institute of the
Novartis Research Foundation
10675 John Jay Hopkins Drive
Suite E225
San Diego, CA 92121-1127

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
10/807,613	03/23/2004	Hong Liu	021288-002710US

CONFIRMATION NO. 4470

OC000000023898691

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Gravinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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SILVY ANNA MURPHY
100 TURNBERRY LANE
CARY, NC 27518

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Kevin David Galloway, et al.
Application No. 10/807,623
Filed: March 24, 2004
Attorney Docket No. END920030164US2

This is a decision in response to the petition, filed February 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 31, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on February 7, 2008. On February 25, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 2191 for consideration of the amendment filed February 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ARTHUR J. SAMODOVITZ
IBM CORPORATION, SHCB/040-3
1701 NORTH STREET
ENDICOTT, NY 13760

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 14, 2006

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/807641 Patent No.: 6,997,265 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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672

Art Unit

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
James John Klocinski et al	:	
Application No. 10/807,663	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 81131669	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 3, 2006. Accordingly, the date of abandonment of this application is August 4, 2006. A Notice of Abandonment was mailed on September 18, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/29/2010

Applicant	: Alexandre Jard	: DECISION ON REQUEST FOR
Patent Number	: 7613230	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/807,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1409** 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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MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET NY 11791

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Pheeraphan WIJITPHAN	:	
Application No. 10/807,665	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 2429-100US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non final Office action mailed March 14, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 16, 2007.

Petitioner asserts that a reply to the non final Office action was in fact timely filed on June 4, 2007. A review of the record acknowledges that a reply was in fact received in the USPTO on June 4, 2007. The petition fee of $770 will be credited to petitioner's deposit account 50-0716.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The above-identified application will be restored to pending status.

Accordingly, this application is being referred to Technology Center 1655 for processing.

Thurman Page
Petitions Examiner
Office of Petitions

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Zimmer, et al. :
Application No. 10/807,668 : ON PETITION
Filed: March 24, 2004 :
Attorney Docket No. INTEL/18683 :
For: METHODS AND APPARATUS FOR INITIALIZING A MEMORY

This is a decision on the petition, filed March 6, 2007 (certificate of mailing date March 1, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the August 23, 2006 non-final Office action. No response being received and no proper extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on November 24, 2006.

Applicants have submitted an amendment in reply to the August 23, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 23, 2006 non-final Office action, and the $1,500.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time filed with the petition on March 6, 2007 (certificate of mailing date March 1, 2007) was submitted subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision, the application will be returned to Technology Center AU 2115 for consideration of the amendment filed on March 6, 2007 (certificate of mailing date March 1, 2007).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GORDON & REES, LLP
101 WEST BROADWAY, SUITE 1600
SAN DIEGO, CA 92101

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
NILFORUSHAN, Ali
Application No. 10/807,695
Filed: March 24, 2004
Attorney Docket No. **101663.0001US1**

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 16, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **GORDON & REES, LLP** has been revoked by the assignee of the patent application on September 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT D. FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614-6232

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September 15, 2004

SEP 17 2004

JOHN H CROZIER
1934 HUNTINGTON TURNPIKE
TRUMBULL CT 06611

In re Application of	:	
TREMAINE, JOHN M.	:	
Application No. 10/807,727	:	
Filed: March 24, 2004	:	
Attorney Docket No.: 396-103	:	DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed March 24, 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(I) 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 good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition satisfies the above-listed requirements for special status.

Accordingly, the petition is **granted**.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of	:	
Mark W. Triplett	:	
Application No. 10/807762	:	ON REQUEST FOR
Filing or 371(c) Date: 03/24/2004	:	RECONSIDERATION OF
Atty Docket No.: 04-258	:	PATENT TERM ADJUSTMENT

This decision is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed September 17, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 1282 days, not 911 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The request for reconsideration is properly treated under 37 C.F.R. § 1.705(b).

As the instant request for reconsideration of patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Mark W. Triplett	: DECISION ON REQUEST FOR
Patent Number	: 7647266	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/807,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1281** 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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LESLIE C. HODGES
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

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OFFICE OF PETITIONS

In re Application of	:	
Raymond J. Haka	:	
Application No.: 10/807,769	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No: GP-303526	:	

This is in response to the petition under 37 CFR 1.137(b) filed June 22, 2006.

The petition is **dismissed as moot**.

The record reflects that final Office action was mailed on December 14, 2005, allowing a shortened statutory period for reply of three months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136. On February 7, 2006, a response was filed; an Advisory Action was issued on February 27, 2006, informing applicant that the response of February 7, 2006, failed to place the application in condition for allowance. On March 14, 2006, applicant filed another response; an Advisory Action was issued on June 6, 2006, informing applicant that the response of March 14, 2006, presented new issues. On June 13, 2006, a Request for Continued Examination was filed with an authorization to charge deposit account 07-0960 for the appropriate fee and extension of time if necessary.

It is noted that that final Office action allowed shortened statutory period for reply of three months from its mailing date and permitted extensions of the time set for reply three additional months pursuant to 37 CFR 1.136. The maximum period for reply expired on June 14, 2006. The RCE was received on June 13, 2006, with an authorization to charge a deposit account to the extension of time within the third month to make the RCE timely. The application is not abandoned and there is no remedy that could be provided by the instant petition. The petition is dismissed, accordingly.

Deposit account 07-0960 will be charged $1,020.00 for the extension of time within the third month.

It is noted that a Notice of Allowance and Issue Fee Due and Notice of Allowability were issued on June 28, 2006. The application file will be 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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Kikuo Maeda	: DECISION ON REQUEST FOR
Patent Number	: 7647887	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/807,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Martin Langhammer	: DECISION ON REQUEST FOR
Patent Number	: 7587443	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/807,796	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1020** 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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CELL SIGNALING TECHNOLOGY, INC.
3 TRASK LANE
DANVERS, MA 01923

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OFFICE OF PETITIONS

In re Application of :
Wetzel et al. :
Application No. 10/807,799 :
Filed: March 24, 2004 :
Attorney Docket No. CST-214 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 9, 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 10, 2008. A Notice of Abandonment was mailed December 22, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $810, and (3) an adequate 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 Technology Center 1642 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP - 3 2004

In re Application of Robert Brown Serial Number: 10/807,820 Filed: March 24, 2004 For: LINEAR-TRACKING WINDSHIELD WIPER SYSTEM FOR WIPING A RECTANGULAR FIELD	: : : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed March 24, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV 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

Robert C. Brown
1207 Sandhurst Drive
Tallahassee FL 32312

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OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND AVE.
SUITE 1100
HOUSTON, TX 77042

In re Application of
Theodore C. Goldstein, et al.
Application No. 10/807,833
Filed: March 24, 2004
Attorney Docket No. 2095.001000/P3125US1

ON PETITION

This is a decision in response to the petition, filed February 6, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 16, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 17, 2008. A Notice of Abandonment was mailed on December 9, 2008. On February 9, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on February 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and subject to refund.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 2191 for consideration of the amendment filed February 6, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

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OFFICE OF PETITIONS

In re Application of	:	
Tom, Alfred	:	
Application No. 10/807,840	:	DECISION ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. KNTN.P005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 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 Restriction Requirement mailed May 21, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 22, 2007. A Notice of Abandonment was mailed December 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $770.00 and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Further, it is not apparent whether the person signing the instant petition currently has the 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. 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 Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Kenneth C. Brooks
Thelen Reid Brown Raysman & Steiner LLP
2225 E. Bayshore Road, Suite 210
Palo Alto CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/807,844	5/7/04	DUNTON, ET AL.	135643-2

Title:
COMPOSITE ARTICLES COMPRISING RESORCINOL ARYLATE POLYESTER AND METHOD FOR MAKING THEROF

Art Unit	Paper Number

Correspondence Address:
ROBERT E. WALTER
GENERAL ELECTRIC COMPANY
ONE PLASTICS AVENUE
PITTSFIELD, MA. 01201

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 532,519

Grant Date: 10-May-04

Approved

for Commissioner of Patents and Trademarks

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[Title 35, United States Code (1952) Sections 184, 185, 186]

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ROBERT E. WALTER
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ONE PLASTICS AVENUE
PITTSFIELD, MA 01201

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OFFICE OF PETITIONS

In re Application of :
Masaaki Yamashita et al :
Application No. 10/807,849 :
Filed: March 24, 2004 :
Attorney Docket No. 145923 (08CJ12719) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 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 1732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KENNETH P. GLYNN, ESQ.
GLYNN & ASSOCIATES, P.C.
24 MINE STREET
FLEMINGTON, NJ 08822

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OFFICE OF PETITIONS

In re Application of	:	
George L. Nagle	:	
Application No. 10/807,855	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. FPI-102A	:	

This is a decision on the petition filed October 24, 2006 which is being treated as a petition 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 November 7, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 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 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.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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TECHNOLOGY CENTER 2100

In re Application of NAKAMURA	:	
Application No.: 10/807,857	:	DECISION ON PETITION
Filing Date: March 24, 2004	:	FOR ACCELERATED
For: REASONABLE CLOCK ADJUSTMENT	:	EXAMINATION UNDER
FOR STORAGE SYSTEM	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed October 31, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Because the petition filed October 31, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

Applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that the references cited in the petition will be considered by the assigned examiner.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED FROM DIRECTORS OFFICE

JUN 29 2006

TECHNOLOGY CENTER 2800

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Attorney Name: Julia Church Dierker
Firm: Hewlett Packard Company
Address: P. O. Box 272400
3404 E. Harmony Road
Intellectual Property Administration
Fort Collins, Co. 80527-2400

In re Application of: Gore et al.	:	
Application No. 10/807,887	:	NOTICE OF WITHDRAWAL
Filed: March 24, 2004	:	FROM ISSUE
Attorney Docket No. 200208977-1	:	UNDER 37 CFR э 1.313
	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 9, 2005, are hereby vacated.

The application is being withdrawn from issue to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

The issue fee is refundable upon request. However, the 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, the applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Zandra V. Smith, Supervisory Patent Examiner, at (571) 272-2429.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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VRBIA, INC.
DAVID DORT
BOX 26219
CRYSTAL CITY STATION
ARLINGTON, VA 22215

COPY MAILED

FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Dort, David Bogart	:	DECISION ON PETITION
Application No. 10/807,898	:	TO MAKE SPECIAL
Filed: March 24, 2004	:	37 CFR 1.102(c)
Attorney Docket No. VRBIA.P10A	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed July 27, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have

> their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The specification and claims as originally filed indicate the invention is directed towards an improved biometric security system. The petition states, "The claims of the above-referenced application are directed towards an invention that is directly aimed at combating terrorism, mainly in the form of an undetectable system that combats coercion of key civilian or military personnel by malevolent actors, mainly during operations to access to secure facilities (or information), during the operation of equipment such as an airliner, or computational or communications equipment." Further, the petition states, "Implementations of the presently claimed invention that materially contribute in the anti-terrorism subject matter include two specific subject matter areas: A) entry and access to secure facilities and information, and B) retrofitting existing biometric access systems." The specification and claims as originally filed provide no indication of an intention to counter terrorism with the security system. The disclosure failed to indicate countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3692 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/807,903	03/23/2004	2817	936	TRIPP040	5	22	3

CONFIRMATION NO. 3994

UPDATED FILING RECEIPT

OC000000013509415

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

Date Mailed: 08/11/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William D. Llewellyn, San Jose, CA;

Assignment For Published Patent Application

Tripath Technology, Inc., San Jose, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/458,471 03/28/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

Projected Publication Date: 11/18/2004

Non-Publication Request: No

Early Publication Request: No

Title

DC offset self-calibration system for a switching amplifier

Preliminary Class
330

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/807,910	03/23/2004	3723	1534	HOE-809	3	48	1

CONFIRMATION NO. 3959

UPDATED FILING RECEIPT

OC000000013536623

20028
LAW OFFICE OF BARRY R LIPSITZ
755 MAIN STREET
MONROE, CT 06468

Date Mailed: 08/13/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gabor Hermann, Tuttlingen, GERMANY;

Assignment For Published Patent Application

AESCULAP AG & Co. KG, Tuttlingen, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

Projected Publication Date: 09/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for extracting a tooth

Preliminary Class

081

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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P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Yozo TANAKA et al. :
Application No. 10/807,926 :
Filed: March 24, 2004 :
Attorney Docket No. 09792909-5818 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 06, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A ONE (1) MONTH extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 07, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 2615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

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OFFICE OF PETITIONS

In re Application of	:	
Megiddo et al.	:	
Application No. 10/807,938	:	ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 304872.08	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the 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 for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FOLEY HOAG, LLP
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

In re Application of	:	
Yoram Rudy	:	
Application No. 10/807,941	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. CWO-002.02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 8, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott E. Kamholz on behalf of all attorneys of record who are associated with customer No. 25181. All attorneys/agents associated with the Customer Number 25181 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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Yoram Rudy**
3030 Huntington Road
Shaker Heights, Ohio 44120

cc: **Ice Miller, LLP**
One American Square, Suite 3100
Indianapolis, IN 46282-0200

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Alexandria, VA 22313-1450
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STEVEN WESEMAN
ASSOCIATE GENERAL COUNSEL
CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA IL 60504

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Francesco De Rege Thesauro et al	:	
Application No. 10/807,944	:	DECISION GRANTING PETITION
Filed: March 24, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 100209	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 26, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2,160 extension of time submitted with the petition on February 1, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of

this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1765.

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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TRELLIS INTELLECTUAL PROPERTY LAW GROUP
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Hans Henry Lee	:	
Application No. 10/807,950	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 010032-000200	:	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 3, 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.

A power of attorney submitted on March 6, 2006 and resubmitted April 3, 2006 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be 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.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 1761.

Amelia Au
Petitions Examiner
Office of Petitions

cc: JOHN W. CARPENTER
155 SANSOME STREET, SUITE 400
SAN FRANCISCO, CA 94104-3614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/13/07

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/807969** Patent No.: **7146162**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Request for Certificate of Correction filed 7/26/2007 has been considered and approved.

GEORGE ENG
SUPERVISORY PATENT EXAMINER

SPE

2617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Govari, Assaf	:	
Application No. 10/807,979	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. BIO-5044USNP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on February 20, 2008. A Notice of Abandonment was mailed June 24, 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 Notice of Appeal, Appeal Brief and Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

Petitioner requested a five (5) month extension of time. 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). The maximum extendable period for reply to a final Office action is six (6) months from the mailing date of the Office Action. Since the $2,230.00 extension of time fee submitted with the petition on July 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3739 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-26-05

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6902724

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE **Art Unit**

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DONALD F. HAAS
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LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON TX 77252-2463

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of
Jochem Van De Weerd
Application No. 10/808,001
Filed: March 24, 2004
Attorney Docket No. TS0633(US)

ON PETITION

This is a decision on the petition filed February 28, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

The petition under 37 CFR 1.137(a) is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on August 5, 2004, for failure to file a timely reply to the Notice to File Missing Parts, mailed June 4, 2004, which set a two (2) month

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(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)).

shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 18, 2005.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner asserts that the Notice mailed June 4, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in petitioner's statement.[7]

Petitioner has not submitted additional evidence to corroborate the allegation of non-receipt. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 19-1800, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition and will not be refunded. Petitioner is also advised that effective December 8, 2004 the petition fees for a large entity was set at $500.00 and $1500.00 respectively for petitions under 37 CFR 1.137(a) and (b) and not $110.00 and $1330.00 as indicated in the petition.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[7]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Guy M. Benhaim	: DECISION ON REQUEST FOR
Patent Number	: 7593418	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/808,024	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1372** 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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Mail Date: 05/18/2010

Applicant : Guy M. Benhaim
Patent Number : 7593418
Issue Date : 09/22/2009
Application No : 10/808,024
Filed : 03/23/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1411** 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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In re Application of	:	
Chandrashekhar Appanna et al	:	
Application No. 10/808,040	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. CISCP830	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed December 18, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2114 for appropriate action by the Examiner in the normal course of business on the reply received August 13, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
Ekwuribe et al.	:	DECISION GRANTING PETITION
Application No. 10/808,044	:	
Filed: 03/24/2004	:	
Attorney Docket No. 9233.14DV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 November 14, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on February 15, 2006. A Notice of Abandonment was mailed on August 25, 2006.

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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

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OFFICE OF PETITIONS

In re Application of Barth et al. Application No. 10/808,050 Filed: March 24, 2004 Attorney Docket No. 503	DECISION ON PETITION

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S)" filed September 28, 2004. Applicants petition to maintain the original March 24, 2004 filing date of the above-identified patent application with figures 10A and 10B as part of the original application disclosure.

Application papers in the above-identified application were filed on March 24, 2004. However, on July 28, 2004, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, figures 10A and 10B appeared to have been omitted.

In response, applicants timely filed the instant petition (and petition fee). Applicants contend that the application as filed on March 24, 2004, included 67 sheets comprising 50 sheets of specification, claims and abstract, 14 sheets of drawings, and 3 sheets of Declaration as filed in grandparent application Serial No. 09/583, 381. In support thereof, applicants submit a copy of the postcard accompanying the above-identified application.

The application file is the Official record of what was received in the Office in an application. A review of the instant application file reveals that figures 10A and 10B were not among the papers filed on March 24, 2004, as figures 10A and 10B are not present in the application file.

Petitioner has not submitted persuasive evidence to support a contention that figures 10A and 10B were among the papers filed on March 24, 2004 (e.g., itemized postcard receipt), but not present in the application file because they were misplaced in the Office. As stated in MPEP 503, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application"

will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

Petitioner's return postcard has been reviewed, and found not to be persuasive evidence of receipt of figures 10A and 10B. Thereon, petitioner identifies "67 SHEETS OF SPECIFICATION, CLAIMS, ABSTRACT, DRAWINGS AND DECLARATION" as being among the papers filed. This description does not adequately itemize the components being submitted. This description does not allow for the acknowledgment of receipt of each component of the application on filing.

Accordingly, the petition is **DISMISSED**. The request for refund of the petition fee is denied. The petition fee is required, since the petition was not necessary to correct any error on the part of the Office.

Nonetheless, petitioners may seek to amend the application to include figures 10A and 10B[1]. The application transmittal included an incorporation by reference of prior application No. 10/200,265. MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

Obviously, in view of the incorporation by reference of the prior application, figures 10A and 10B are not new matter if they were a part of the disclosure of the prior application.

---

[1] Petitioners are reminded with respect to applications filed on or after September 21, 2004, 37 CFR § 1.57 has been added to provide for incorporation by reference. See *Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule*, 69 FR 56482, 56539 (September 21, 2004).

Thus, a preliminary amendment to amend the specification to include figures 10A and 10B should be filed prior to the first Office action on the merits to avoid further delay in the prosecution of this application. This amendment will be considered by the primary examiner.

The application is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, with a filing date of March 24, 2004, using the papers received in the Office on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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THE OLLILA LAW GROUP LLC
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SUITE 300
BOULDER CO 80302

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OFFICE OF PETITIONS

In re Application of
Paul A. Moshenrose et al.
Application No. 10/808,062
Filed: March 24, 2004
Title of Invention: **VACUUM CLEANER FAN UNIT AND ACCESS APERTURE**

ON PETITION

This is a decision on the petition filed October 29, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned October 27, 2007 for failure to timely pay the issue fee on or before October 26, 2007. Accordingly, a Notice of Abandonment was mailed November 1, 2007, after the filing of the instant petition.

The issue fee in the amount of $1440.00, petition fee in the amount of $1540.00 and publication fee in the amount of $300 have been charged to the credit card given. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
HIRAOKA, et al.	:	
Application No. 10/808,067	:	DECISION GRANTING PETITION
Filed: March 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10210/10**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 6, 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 September 12, 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]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Amir N. Penn appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Mikiya et al.	:	DECISION ON
Application No. 10/808,067	:	REQUEST FOR
Filed: 03/24/2004	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
10210/10	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed on September 12, 2008. Applicants request that the patent term adjustment at the mailing of the notice of allowance be increased by 291 days from 226 days to 517 days.

The application for patent term adjustment is **DISMISSED**.

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 no (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 12, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment

(PTA) to date is 226. On September 12, 2008, applicants timely submitted the instant application for patent term adjustment[1].

Applicants request, in essence, correction of the patent term adjustment by two hundred ninety-one (291) days from two hundred twenty-six (226) days to five hundred seventeen (517) days. Specifically, petitioners request that the patent term adjustment be increased to 517 in accordance with 37 CFR 1.703(b)(4) as a result of delay between the filing of a notice of appeal and the mailing of the notice of allowance.

Applicants' argument is not well taken. 37 CFR 1.703(b)(4) states that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, **but not including the sum of the following periods**: The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

Accordingly, applicant is not entitled to patent term adjustment under 37 CFR 1.703(b)(4) for the period between the filing of the notice of appeal and the mailing of the notice of allowance.

The relevant period of Office delay runs from the date of filing a compliant appeal brief, not the date of filing of a notice of appeal. Specifically, 35 U.S.C. 154(b)((1)(A)(ii) provides that the Office's failure to respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken constitutes examination delay. 37 CFR 1.703(a)(4) pertains to

[1] PALM records show that the Issue Fee was also received on September 12, 2008.

the provisions of 35 U.S.C. 154(b)(1)(A)(ii) and specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with 37 CFR 41.37 was filed and ending on the mailing date of any of an examiner's answer under 37 CFR 41.39, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. In this regard, "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 37 CFR 41.37" requires that: (1) the appeal brief fee (37 CFR 1.17(c)) be paid (37 CFR 41.37(a)); and (2) the appeal brief complies with 37 CFR 41.37(c)(1) through (c)(9).

In this regard, an appeal brief in compliance with 37 CFR 41.37 was filed on March 18, 2008. The notice of allowance was mailed on June 12, 2008, within four (4) months of the filing of the appeal brief in compliance with 37 CFR 41.37. Accordingly, no patent term adjustment is warranted under 37 CFR 1.703(a)(4).[1]

Accordingly, the calculation of a 257 day period under 37 CFR 1.703(a)(4) as the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of a notice of allowance under 35 U.S.C. 151 is incorrect, as the appeal brief filed on May 29, 2007, was not in compliance with § 41.37. This period of patent term adjustment will be removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is no (0) days (85 (342-257) days of PTO delay reduced by 116 days of Applicant delay).[2]

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

---

[1] See Response to Comment 38, Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366, 56385-87 (Sep. 18, 2000).

[2] As the Office does not set forth negative balances of patent term adjustment, the patent term adjustment is properly set at no (0) days.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ERIC D. MIDDLEMAS
EASTMAN CHEMICAL COMPANY
P.O. BOX 511
KINGSPORT, TN 37662

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OFFICE OF PETITIONS

In re Application of	:
Sam Richard Turner et al	:DECISION ON PETITION
Application No. 10/808,070	:UNDER 37 CFR 1.78(a)(3)
Filed: March 24, 2004	:
Attorney Docket No. 71351-04	:

This is a decision on the petition filed January 24, 2005, under 37 CFR § 1.78(a)(3), requesting to delete benefit claims to the prior-filed nonprovisional Application No. 10/743,112, filed December 22, 2003, as set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED AS MOOT**.

The filing of a petition under 37 CFR 1.78(a)(3) is unnecessary to delete a benefit claim. In this regard, petitoner's attention is directed to MPEP § 201.11 (G), under the subheading Deleting Benefit Claims, which states:

> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under 37 CFR 1.116 (see MPEP § 714.12 and § 714.13). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under 37 CFR 1.312 (see § MPEP 714.16).

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as unnecessary.

In view of the dismissal of the instant petition as moot, the $1,370 petition is unnecessary and will be credited to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1711 for appropriate action on the amendment filed January 21, 2005 requesting deletion of the benefit claim.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Shlesinger, Fitzsimmons & Shlesinger
Suite 1323
183 East Main Street
Rochester, NY 14604

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OFFICE OF PETITIONS

In re Application of	:
Migli	: DECISION ON PETITION
Application No. 10/808,076	:
Filed: March 24, 2004	:
Docket No.: 6805	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 12, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed May 11, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed October 7, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 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 will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:	
John RATZLOFF	:	
Application No. 10/808,085	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 1449.001US2	:	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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, P.A. has been revoked by the assignee of the patent application on February 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 unless notified by applicant.

There is an outstanding Office action mailed April 10, 2007 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MARK SCHROEDER
CROMPTON, SEAGER &
TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/808,085	03/24/2004	John Ratzloff	1449.001US2

CONFIRMATION NO. 5362

OC000000023595432

28075
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 04/30/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/808,085	03/24/2004	John Ratzloff	1449.001US2

CONFIRMATION NO. 5362

OC000000023595424

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 04/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/808,085	03/24/2004	John Ratzloff	1449.001US2

CONFIRMATION NO. 5362

OC000000023595424

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 04/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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SUSAN D. REINECKE
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :

ATKLINSON, Benjamin :
Application No. 10/808,104 :
Filed: March 24, 2004 :
Attorney Docket No. 12180/4 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 John G. Rauch 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: **BENJAMIN ATKINSON**
2455 WEST PENSICOLA
CHICAGO, IL 60618

cc: **ANTHONY NIMMO**
ICE MILLER LLP
200 W. MADISON STREET, SUITE 3500
CHICAGO, IL 60606

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OVERLAND PARK, KS 66251-2100

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OCT 0 5 2004
OFFICE OF PETITIONS

In re Application of	:
Papineau, et al.	: DECISION GRANTING STATUS
Application No. 10/808,120	: UNDER 37 CFR 1.47(a)
Filed: March 23, 2004	:
Atty. Dkt. No.: 040699-0127	:
For: METHOD AND SYSTEM FOR	:
EXCHANGING DATA BETWEEN	:
PORTABLE APPLICATIONS FOR	:
MOBILE DEVICES	:

This decision is in response to the petition under 37 CFR 1.47(a), filed September 10, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Jon Bostrom 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jon Bostrom
755 Yellowpine Road
Reno, NV 89511

In re Application of Papineau, et al. Application No. 10/808,120 Filed: March 23, 2004 Docket No.: 040699-0127 For: METHOD AND SYSTEM FOR EXCHANGING DATA BETWEEN PORTABLE APPLICATIONS FOR MOBILE DEVICES	:	LETTER

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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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AUG 25 2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

In re Application of	:
Peiris et al.	: PETITION TO MAKE SPECIAL
Serial No.: 10/808,121	:
Filed: March 24, 2004	:
Attorney Docket No.: V9661.0069	

This is in response to applicants' petition filed September 15, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in responding to this petition is regretted but it was just recently brought to the attention of the deciding authority.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of :
Bruce N. Rogers, et al. :
Application No. 10/808,125 :
Filed: March 24, 2004 :
Attorney Docket No. PC27966A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by July 15, 2005, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed June 7, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). A Notice of Abandonment was mailed on February 18, 2005. In response, on July 15, 2005, the present petition was filed, as well as an executed Declaration using an Application Data Sheet (ADS) and the requisite surcharge.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed July 15, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 06/18/2010

Applicant	: Cyrus B. Clarke	: DECISION ON REQUEST FOR
Patent Number	: 7639407	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/808,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1578** 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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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/03/2010

Applicant	: Brant Candelore	: DECISION ON REQUEST FOR
Patent Number	: 7398009	: RECALCULATION of PATENT
Issue Date	: 07/08/2008	: TERM ADJUSTMENT IN VIEW
Application No	: 10/808,134	: OF WYETH
Filed	: 03/24/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JJGJr: 09-04

Paper No: __

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 30 2004
OFFICE OF PETITIONS

In re Application of	:	
Chung, et al.	:	
Application No. 10/808,141	:	DECISION ON PETITION
Filed: 24 March, 2004	:	
Attorney Docket No.: 5649-919DV	:	

This is a decision on the petition under 37 C.F.R. §1.10, filed on 16 August, 2004, and seeking for the above-identified application a filing date of 24 March, 2004, instead of the presently accorded filing date of 25 March, 2004.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 25 March, 2004;
- the petition recites that attachments/enclosures include, *inter alia*, copy of the US Postal Service (USPS) Express Mail Label (No. EV193584260US), and indicates that the "date in" is not completed, however, a USPS date stamp of 24 MAR 2004 does appear on the face of the label;
- the USPS Express Mail Label No. EV193584260US is set forth in the Certificate of Express Mailing on the second page of the Application Transmittal; and
- Petitioner submitted a copy of the printout from the USPS Track and Confirm, which indicates that the package was accepted by the USPS as follows: "ACCEPTANCE: March 24, 2004, 5:38 p.m. RALEIGH, NC 27612.

Accordingly the petition hereby is **granted**.

The instant file is released to OIPE to correct the filing date so as to accord a filing date of 24 March, 2004, to the instant application and to mail to Petitioner a corrected filing receipt reflecting a filing date of 24 March, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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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NOV 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory J. Singerle	:	
Application No. 10/808,166	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 048556/274149	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 16, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2131 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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AUG 31 2005

OFFICE OF PETITIONS

EVAN M. KENT
C/O MITCHELL SILBERBERG & KNUPP LLP
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064-1683

In re Application of :
Grinberg : DECISION ON PETITION
Application No. 10/808,203 :
Filed: March 23, 2004 :
Docket No.: 52277/JEJ/F411 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 26, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed April 25, 2005. The Notice set a three (3) month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed.

Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The revocation of power of attorney and appointment of power of attorney submitted herewith have been entered. See attached written notifications.

This application will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: Notice Re: Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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ROSSI & ASSOCIATES
P.O. Box 826
Ashburn, VA 20146-0826

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JAN 18 2007

OFFICE OF PETITIONS

In re Patent No. 7,104,049

Issue Date: September 12, 2006

Application No. 10/808,209

Filed: March 24, 2004

Attorney Docket No. SANA:007

ON PETITION

This is a decision on the petition filed September 14, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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Paper No.

Reddy Us Therapeutics, Inc
3065 Northwoods Circle
Norcross GA 30071

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard T. Timmer et al.	:	
Application No. 10/808,210	:	DECISION ON PETITION
Filed: March 24, 2004	:	UNDER 37 C.F.R.
Attorney Docket Number: RUS	:	§ 1.137(B)
3.0-016	:	
Title: TRIAZINE COMPOUNDS	:	
AND THEIR ANALOGS,	:	
COMPOSITIONS, AND METHODS	:	

This is a decision on the petition filed October 17, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 24,

---

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on October 24, 2007.

With the present petition, Petitioner has submitted the issue and publication fees, the petition fee, and the proper statement of unintentional delay. No terminal disclaimer is required.

Receipt of the concurrently submitted page 168 of the specification is acknowledged.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 See MPEP § 710.02(e).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of
Alan L. Kaganov et al.
Application No. 10/808,216
Filed: March 24, 2004
Attorney Docket No. 9494.18

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed November 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment. The petition is treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e).

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the petition is **DISMISSED**.

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
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

In re Application of
Alan L. Kaganov et al.
Application No. 10/808,216
Filed: March 24, 2004
Attorney Docket No. 9494.18

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 15, 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 petition is **GRANTED**.

A petition under 37 CFR 1.78 was filed November 15, 2004 and dismissed in a decision mailed June 1, 2005 because the amendment submitted with the petition was unacceptable and, therefore, could not be considered a proper reference under 37 CFR 1.78(a)(2)(i). More specifically, the amendment was physically a part of the petition and, as such, did not comply with 37 CFR 1.121, 1.52, or 1.4(c). 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office. Additionally, the petition filed November 15, 2004 was treated under 37 CFR 1.78(a)(6) but should have also been treated under 37 CFR 1.78(a)(3).

Comes now petitioner with the instant renewed petition and amendment.

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 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 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 application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate non-provisional application, Application No. 10/271,334, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/333,937, which was filed on November 28, 2001.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3731 for appropriate action on the amendment submitted June 15, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT J. SAYFIE, P.C.
161 OTTAWA AVENUE NW, SUITE 407
GRAND RAPIDS, MI 49503

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OFFICE OF PETITIONS

In re Application of	:	
HINES, Thomas N.	:	
Application No. 10/808,217	:	DECISION ON PETITION
Filed: March 24, 2004	:	Under 37 CFR 1.137(b)
Attorney Docket No. **PA4-3006**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 17, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is noted that a four (4) month extension of time was concurrently filed with the untimely amendment on December 21, 2006. Unfortunately, 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 $795 extension of time fee submitted with the untimely response on December 21, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 2612 for consideration of the amendment filed December 21, 2006.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRELLIS INTELLECTUAL PROPERTY LAW GROUP
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Jon Kevin Anderson et al	:	
Application No. 10/808,235	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 010032-000100US	:	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 February 13, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Charles J. Kulas and the attorneys/agents associated with customer No. 37490: (1) do not have power of attorney in this patent applications; (2) have been employed or otherwise engaged in the proceedings in this patent application. However, the request cannot 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 request 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 practitioners' reasons.

A power of attorney submitted on March 6, 2006 and April 3, 2006 were improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be 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 applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 1761 to await a reply to the non-final Office action mailed January 3, 2006.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: JOHN W. CARPENTER
155 SANSOME STREET
SUITE 400
SAN FRANCISCO, CA 94104-3614

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K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203
P.O. BOX 900
BRONX, NY 10471-0900

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OFFICE OF PETITIONS

In re Application of	:	
Sommer et al.	:	
Application No. 10/808,242	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 22882	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is August 30, 2007. A Notice of Abandonment was mailed December 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Further, 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 $1,050.00 three month extension of time fee submitted with the petition on December 5, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1791 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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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INTEGRATED DEVICE TECHNOLOGY, INC.
6024 SILVER CREEK VALLEY RD.
SAN JOSE CA 95138

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OFFICE OF PETITIONS

In re Application of :
Yeh et al. :
Application No. 10/808,253 :
Filed: March 23, 2004 :
Title: Collision Detection in a Multi-Port :
Memory System

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 1, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed May 1, 2007 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on August 2, 2007. A Notice of Abandonment was mailed on August 24, 2007.

Petitioner contends upon the receipt of the Notice of Allowability which indicated that corrected drawings were required, petitioner called the examiner. Petitioner maintains that during a phone conversation, the examiner stated that the box requiring corrected drawings was checked in error and no submission of corrected drawings was required. Petitioner states a request for corrected Notice of Allowability although requested, was not issued. The issue fee was timely submitted.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn.

Pursuant to 37 CFR 1.2 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. The Notice of Allowability clearly states that applicant was required to submit corrected drawings within the three month period of reply. A review of the record shows that corrected drawings were not filed prior to the abandonment of the application. Further review shows petitioner did not file any objections to the Notice of Allowability in writing.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner may wish to file a petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Finnegan, Henderson, Farabow, Garrett & Dunner
901 New York Ave. NW
Washington, DC 20001-4413

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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INTEGRATED DEVICE TECHNOLOGY, INC.
6024 SILVER CREEK VALLEY RD.
SAN JOSE CA 95138

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MAR 20 2008

In re Application of	:	
Yeh et al.	:	
Application No.10/808,253	:	DECISION ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. IDT-1883-UT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before August 1, 2007, as required by the Notice of Allowability, mailed May 1, 2007. Accordingly, the date of abandonment of this application is August 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of 1540; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

The address on the petition differs from the correspondence address of record. If appropriate a change of correspondence address should be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Gary Edwards
Finnegan Henderson Farabow Garrett & Dunner, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

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JUL 21 2009

OFFICE OF PETITIONS

INTEGRATED DEVICE TECHNOLOGY, INC.
6024 SILVER CREEK VALLEY RD.
SAN JOSE CA 95138

In re Patent No. 7,363,436	:	ON PETITION UNDER 37 CFR
Yeh et al.	:	1.183 AND ON REQUEST FOR
Issue Date: April 22, 2008	:	RECONSIDERATION OF PATENT
Application No. 10/808,253	:	TERM ADJUSTMENT
Filed: March 23, 2004	:	
Attorney Docket No. 9145.0021	:	

This is a decision on the 1) Petition under 37 CFR 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT" under 37 CFR 1.705(d), both of which were filed on October 17, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR § 1.705(d) must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See 37 CFR 1.181(f).

BACKGROUND

On April 22, 2008, the above-identified application matured into U.S. Patent No. 7,363,436, with a revised patent term adjustment of zero (0) days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 CFR 1.183 to (i) suspend or waive the requirement of 37 CFR 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT". Patentee references the recent decision in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008).

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on April 22, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 17, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by June 22, 2008, the date two months from the date this patent issued, April 22, 2008. Rather, on October 17, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154 requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director and authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 CFR 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 CFR 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 CFR 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 CFR 1.18(e)(37 CFR 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the extraordinary situation presented by the recent decision in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for

Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute fora to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT" filed October 17, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to three hundred twelve (312) days.

On April 22, 2008, the above-identified application matured into U.S. Patent No. 7,363,436 with a revised patent term adjustment of zero (0) days. The instant request for reconsideration was filed on October 17, 2008, nearly six months after the issuance of the patent.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the $400.00 petition fee set forth in 37 CFR 1.17(f) is acknowledged. The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

Telephone inquiries specific to 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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LAWRENCE S. COHEN, ESQ.
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD
SUITE 1220
LOS ANGELES CA 90024

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OFFICE OF PETITIONS

In re Application of	:	
Daniel W. Rodlin	:	
Application No. 10/808,261	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 03-113	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed March 17, 2008, 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 April 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3633 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND, MI 48641-1967

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
SO et al	:	
Application No.: 10/808,270	:	DECISION ON PETITION
Filing Date: March 24, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 43004A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 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 October 3, 2005, which set a three month shortened statutory period for response. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on March 4, 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 October 3, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1752 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of
Papineau et al.
Application No. 10/808,271
Filed: March 23, 2004
Attorney Docket No. 1828A
For: Method And System For Exchanging Data Between Portable Applications For Mobile Devices

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 10, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (2) and (4). Ambiguity exists regarding the addresses for the inventors. The petition and the declaration signed by Myers supply a different address for the non-signing inventor than the declaration signed by Papineau. The declaration signed by Myers has a different address listed for Myers than the declaration signed by Papineau. Petitioner should file a supplemental declaration OR application data sheet clearly indicating the correct address for each inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of Papineau et al. Application No. 10/808,271 Filed: March 23, 2004 Attorney Docket No. 1828A For: Method And System For Exchanging Data Between Portable Applications For Mobile Devices	DECISION TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed February 18, 2005.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination will be informed of the instant decision.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JUN 03 2005

OFFICE OF PETITIONS

Jon Bostrom
755 Yellowpine Road
Reno, NV 89511

In re Application of Papineau et al. Application No. 10/808,271 Filed: March 23, 2004 Attorney Docket No. 1828A For: Method And System For Exchanging Data Between Portable Applications For Mobile Devices	DECISION TO ACCORD STATUS UNDER 37 CFR 1.47(a)

Mr. Bostrom:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

Telephone inquiries regarding this communication may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: SPRINT
6391 SPRINT PARKWAY
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OVERLAND PARK, KS 66251-2100

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OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of
Tatsunori Kanai et al
Application No. 10/808,320
Filed: March 25, 2004
Attorney Docket No. 251092US2SRD

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 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 June 25, 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 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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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.
10/808,320	03/25/2004	Tatsunori Kanai	251092US2SRD	5437

22850 7590 01/31/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHOI, WOO H

ART UNIT	PAPER NUMBER
2189	

NOTIFICATION DATE	DELIVERY MODE
01/31/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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TECHNOLOGY CENTER 2100

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of: KANAI et al.
Application No. 10/808,320
Filed: March 25, 2004
For: INFORMATION PROCESSING SYSTEM INCLUDING PROCESSORS AND MEMORY MANAGING METHOD USED IN THE SAME SYSTEM

DECISION ON PETITION

This is a decision on the petition filed on May 8, 2007, under 37 CFR 1.181(a) to invoke Supervisory Authority requesting that the IDS/Lists of Related Cases filed on August 9, 2004, October 18, 2004, December 8, 2004, December 19, 2005 and September 7, 2006 be considered by the Examiner and that the accompanying Lists of Related Cases forms be signed and returned indicating a consideration of the related cases listed on the forms.

A review of the file wrapper record shows that a PTO-form 1449, containing the above referenced Lists of related cases, duly considered, was mailed by examiner in the instant application on January 24, 2008.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

MAILED

MAR 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Shen	:	
Application No. 10/808,326	:	ON APPLICATION FOR
Filed: March 25, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0026-0072	:	
Title: DOCUMENT NEAR-	:	
DUPLICATE DETECTION	:	

This is in response to the "REQUEST FOR RECONSIDERTAION OF PATENT TERM ADJUSTMENT," filed December 3, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and forty-three (1243) days, not seven hundred and eighty-eight (788) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/23/2010

Applicant	: Tomohiro Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7665084	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/808,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1695** 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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MAIL

JUN 20 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

In re Application of: Isobe, et al.
Application No. 10/808,364
Filed: March 25, 2004
For: METHOD FOR MANAGING DISK DRIVES OF DIFFERENT TYPES IN DISK ARRAY

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed April 20, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 6/14/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/808367 Patent No.: 7039342

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check claims

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

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OLIFF & BERRIDGE, PLC
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ALEXANDRIA, VA 22320

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DEC 21 2006
OFFICE OF PETITIONS

In re Application of
Von Friedrich C. Paterro
Application No. 10/808,371
Filed: March 25, 2004
Attorney Docket No. 102901

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 December 6, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

The request was signed by James Oliff on behalf of all attorneys/agents of record.

James Oliff and all the attorney/agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents 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 August 15, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Von Friedrich C. Paterro
23-B Makati Tuscany
6751 Ayala Avenue
Makati City, PHILLIPINES ZC-1226

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/808,371	03/25/2004	Von Friedrich C. Paterro	102901

CONFIRMATION NO. 4729

OC000000021694265

25944
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

Date Mailed: 12/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2006.

- 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.

ANDREA M SMITH
OP (571) 272-3226

FORMER ATTORNEY/AGENT COPY

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of
Lyu et al.
Application No. 10/808,374
Filed: March 25, 2004
Attorney Docket No. 6661-000041/US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2008, to revive the above-identified application.[1]

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed January 17, 2006. 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 February 18, 2006. A Notice of Abandonment was mailed on 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 a reply to the restriction requirement, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

Pursuant to petitioner's request deposit account no. 08-0750 will be charged the $1500.00 petition fee based upon the fees of September 2006.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required

[1] Petitioner has provided postcard evidence that a petition under 37 CFR 1.137(b) was previously submitted on September 21, 2006. However, the record does not contain a copy of the September 21, 2006 petition. Since the petition filed in 2006 was not treated this is not a renewed petition.

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 the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1711 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/808451 Patent No.: 7182838

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 Claims

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

1791

Art Unit

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WASHINGTON, DC 20005-3960

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JUN 15 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuhiro Miwa :
Application No. 10/808,467 :
Filed: March 25, 2004 :
Attorney Docket No. 1403016 :

This is a decision on the petition under 37 CFR 1.313, filed June 15, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
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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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 20050920

Applicant : Miyairi,Hidekazu et al.
Appl No.: 10/808,499
Filed: March 25, 2004

DECISION GRANTING PETITION UNDER *37 CFR 1.84*

This decision is in response to the petition filed March 25, 2004 in the above-identified application. Petitioner requests that color drawings be accepted in accordance with 37 C.F.R. 1.84(a)(2).

The petition states that color drawings of Figures 11A-11C are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84(a)(2) in that it was accompanied by (1) the appropriate fee and (2) three sets of color drawings. The specification further includes the required text language set forth in 37 C.F.R. 1.84 (a)(2)(iii).

The papers filed on March 25, 2004 fulfill the requirements set forth in 37 C.F.R. 1.84(a)(2) and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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MAY 18 2006

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of	:
Timothy E. Trigg et al	:
Serial No.: 10/808,504	: PETITION DECISION
Filed: March 25, 2004	:
Attorney Docket No.: 4137-33	:

This is in response to the petition under 37 CFR 1.181, filed September 26, 2005, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on October 6, 2004. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on September 19, 2005. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Notice of Allowance and Issue Fee Due and a new Notice of Allowability.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

United States
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Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Stephen P. Catlin
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/808535 received on 05/24/04 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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Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington VA 22215

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of	:	
NUDELMAN et al.	:	
Application No. 10/808,541	:	DECISION ON PETITION
Filed: 03/25/2004	:	
Attorney Docket No. 27755	:	

This is a decision on the PETITION UNDER 37 C.F.R. 1.181 (a) TO WITHDRAW HOLDING OF ABANDONMENT," filed October 25, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office Action mailed February 1, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 4, 2007.

Applicants request that the Office withdraw the holding of abandonment because they did not receive the Office Action, which was returned as undeliverable by the U.S. Postal Service on February 2, 2007. Applicants assert that the address listed on the face of the Office Action is correct.

A review of the record reveals that the USPTO mailed the nonfinal Office Action to the correct correspondence address. However, the USPS inexplicably returned the Office Action to the USPTO. For this reason, applicants did not receive the nonfinal Office Action of February 1, 2007. Accordingly, the petition to withdraw the holding of abandonment is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status.

The Office acknowledges receipt of the reply to the nonfinal Office Action in the form of an amendment submitted on December 3, 2007.

This application is being referred to the Technology Center Art Unit 1624 for consideration of the amendment filed on December 3, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Mineki Taoka et al	:	
Application No. 10/808,614	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. 70594-029	:	

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 2851 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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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang et al	:	
Application No. 10/808,618	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. XW-672	:	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 30, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 1775.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD
SUITE 280
CLEVELAND, OH 44145

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Dabak, et al.	:	
Application No. 10/808,621	:	DECISION ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. TI-28940.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

As a preliminary matter, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 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 obtained. Accordingly, the application became abandoned on January 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 an amendment, (2) the petition fee of $1,500.00, and (3) an acceptable statement of unintentional delay.

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, petitioners are required to provide a statement to that effect.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: ROBERT N. ROUNTREE
70360 HIGHWAY 69
COTOPAXI, CO 81223

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Rex Sandwith	:	
Application No. 10/808,654	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 7016.P001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 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 Blakely Sokoloff Taylor & Zafman has been revoked by the assignee of the patent application on May 22, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Law Office of R. Alan Burnett**
4108 131st Avenue S.E.
Bellevue, WA 98006

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
10/808,654	03/24/2004	Rex Sandwith	7016.P001

CONFIRMATION NO. 6106

OC000000021968521

OC000000021968521

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES Y. GO
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED

MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Rex Sandwith	:	DECISION ON PETITION
Application No. 10/808,654	:	TO WITHDRAW
Filed: March 24, 2004	:	FROM RECORD
Attorney Docket No. 7016.P001	:	

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 27, 2006 and September 15, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 22, 2006 the power of attorney to Blakely Sokoloff Taylor & Zafman LLP 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: Law Office of R. Alan Burnett
4108 131st Ave. SE
Bellevue WA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROCKWELL AUTOMATION, INC./BF
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

Mail Date: 04/20/2010

Applicant	: Francisco P. Maturana	: DECISION ON REQUEST FOR
Patent Number	: 7640291	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/808,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1679** 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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NUTTER, MCCLENNEN, & FISH, L.L.P.
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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SEP 1 1 2008

In re Application of	:	
Daniel H. Kim	:	
Application No. 10/808,687	:	DECISION ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. 101896-647	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 21, 2008, as required by the Notice of Allowance and Fee(s) Due mailed February 21, 2008. Accordingly, the date of abandonment of this application is May 22, 2008. A Notice of Abandonment was mailed June 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 payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Yuichi Gomi, et al.	:	
Application No. 10/808,688	:	DECISION GRANTING PETITION
Filed: March 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. OOCL-154 (6HS-04S0274)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 29, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Sarrazin, et al.	:	DECISION ON PETITION
Application No. 10/808,704	:	
Filed: March 17, 2004	:	
Attorney Docket No. ARC-15101-1	:	

This is a decision on the petition filed February 15, 2005, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed June 7, 2004. This Notice set a period for reply of two months from the mailing date of the Notice to submit an executed oath or declaration, a surcharge for its late filing, and replacement drawings. On November 23, 2004, applicants filed a declaration and the late surcharge, made timely by obtaining a four month extension of time. However, applicants did not file replacement drawings. A Notice of Incomplete Reply was mailed on December 13, 2004, informing applicants that the period for reply for submission of drawings would remain as set forth in the Notice to File Missing Parts. No replacement drawings having been received, the application became abandoned on December 8, 2004. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted replacement drawings.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of Philippe C. Sarrazin et al Application No. 10/808,704 Filed: March 17, 2004 Attorney Docket No. ARC-15101-1	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed March 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 December 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\808704.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : ~~5/9/06~~ 7/19/06

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/808705 Patent No.: 6929259

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: ok

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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LARRY MASON LEE
4408 SPICEWOOD SPRINGS ROAD
AUSTIN, TX 78759

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NOV 02 2005

OFFICE OF PETITIONS

In re Application of:	:	
Marc Eric Vandament	:	
Application No. 10/808,714	:	DECISION ON
Filed: March 23, 2004	:	PETITION
Title of Invention:	:	
MOTORCYCLE TIE DOWN SYSTEM	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed October 14, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed March 2, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned June 3, 2005. A Notice of Abandonment was mailed October 21, 2005.

With the instant petition, Applicant has filed an Amendment in response to the nonfinal Office action.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

This application is being returned to Technology Center 3612 for processing of the Amendment, filed February 4, 2005, in due course.

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

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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
10/808,715	03/23/2004	2661	1490	073338.0153 (03-52024 FLA	3	48	4

CONFIRMATION NO. 6064

CORRECTED FILING RECEIPT

OC000000013562954

05073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Date Mailed: 08/17/2004

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)

Ching-Fong Su, Milpitas, CA;
Takeo Hamada, Cupertino, CA;
Kaoru Chujo, Hachioji, JAPAN;
Hung-ying Tyan, San Jose, CA;
Xiangying Yang, Austin, TX;
Takafumi Chujo, Hachioji, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2004

Projected Publication Date: 09/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Estimating and managing network traffic

Preliminary Class
370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/808,716	03/22/2004	2182	842	AUS920040060US1	9	24	3

CONFIRMATION NO. 5962

CORRECTED FILING RECEIPT

OC000000014116627

35525
IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

Date Mailed: 10/18/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert Tod Dimpsey, Austin, TX;
Frank Eliot Levine, Austin, TX;
Robert John Urquhart, Austin, TX;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY

Power of Attorney:

JOSEPH C. REDMOND JR.–18753
GERALD HOWARD GLANZMAN–25035
Douglas Lefeve–26193
JOHN E. HOEL–26279
John Henderson Jr.–26907
Christopher Hughes–26914
Robert M. Carwell–28499
Thomas Tyson–28543
Casimer Salys–28900
Mark Walker–30699

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/808,716

Projected Publication Date: 09/22/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for autonomic test case feedback using hardware assistance for code coverage

Preliminary Class

710

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,728	03/24/2004	Dimitri A. Chernyak	018158-024500US	5629

20350 7590 01/28/2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
PHAM, HOA Q

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Paper No. 011905

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of:	:	
Chernyak ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/808,728	:	INVENTORSHIP
Filed: March 24, 2004	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: 018158-024500US	:	

This is a decision on the petition filed November 1, 2004 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed November 1, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name:

Matthew Clopp

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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GKN DRIVELINE NORTH AMERICA, INC.
3300 UNIVERSITY DRIVE
AUBURN HILLS MI 48326

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MAR 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Craig Andrew Campbell	:	
Application No. 10/808,741	:	DECISION GRANTING PETITION
Filed: March 24, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. G00339/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 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 reply to the Notice of Allowability of June 2, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication and for review of the drawings received November 3, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Daniel J. Von Seggern :
Application No. 10/808,758 : ON PETITION
Filed: March 24, 2004 :
Attorney Docket No. 22908-1239 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency 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 to File Missing Parts of Nonprovisional Application (Notice), mailed September 16, 2005, which requires the submission of an executed oath or declaration, a $65 surcharge fee for its late filing, and compliance with the sequence listing requirements. 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 application became abandoned on November 17, 2005. A Notice of Abandonment was mailed on May 22, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously

filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C). The instant petition lacks items (1) and (3) above.

With respect to item (1), compliance with the sequence requirements set out in the Notice of September 16, 2005 has not been satisfied. Accordingly, before revival can be effected, the sequence requirement must be satisfied.

As to item (3) above, the petition presently does not provide an adequate statement of unintentional delay. More particularly, the sentence "[t]he delay was due to internal communication error when the file for this case was transferred from Fish & Richardson to DLA Piper Rudnick Gray Cary U.S. LLP.," needs further clarification. What was the nature of the communication error which led to the unintentional abandonment of this application?

In sum, the renewed petition under 37 CFR 1.137(b) must be accompanied by a complete reply to the Notice of September 16, 2005 and an explanation of the nature of the miscommunication error which resulted in the unintentional abandonment of this application.

The revocation and power of attorney filed on November 14, 2005 is unacceptable since it fails to comply with the provisions of 37 CFR 3.73(b). In this regard, the reel and frame number where the recorded assignment appears in the Office assignment records is missing. A courtesy copy of this decision is being mailed to petitioner. However, until such time as an acceptable power of attorney is received, all future correspondence regarding this file will continue to be held with the above address of record.

Future 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

cc:

Patent Group
DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street NW
Washington, DC 20036-2412

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DLA PIPER LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Daniel J. Von Seggern :
Application No. 10/808,758 : DECISION ON PETITION
Filed: March 24, 2004 :
Attorney Docket No. 22908-1239 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 19, 2005, which required the submission of an executed oath or declaration, a $65 surcharge fee for its late filing, and compliance with the sequence listing requirements. 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 application became abandoned on November 20, 2005. A Notice of Abandonment was mailed on May 22, 2006.

Petitioner has satisfied the requirements of 37 CFR 1.137(b) in supplying (1) the required reply to the Notice of September 6, 2005, (2) the petition fee of $750, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of September 6, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision.

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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NOV - 8 2004

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NOV - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

DONALD J. ERSLER
725 Garvens Avenue
Brookfield, WI 53005

In re application of
Robert V. Neault
Application No. 10/808,770
Filed: March 25, 2004
For: METHOD OF DISPENSING VERMIN AND INSECT POISON

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 25, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a birth certificate for Mr. Neault 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: John M. Cioffi	: DECISION ON REQUEST FOR
Patent Number	: 7639596	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/808,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1113** 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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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: Fernando Oliveira	: DECISION ON REQUEST FOR
Patent Number	: 7599951	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/808,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1286** 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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 14 2005

Technology Center 2100

In re Application of YAGAWA	:	
Application No.: 10/808,792	:	DECISION ON PETITION
Filing Date: March 24, 2004	:	FOR ACCELERATED
For: WORM PROVING STORAGE SYSTEM	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed October 31, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The discussion must point out how the claimed subject matter is patentable over the references. Although the petition adequately distinguishes independent claims 13 and 32 from the cited art, the discussion states that essentially all of the limitations of the independent claim 1 are not taught or suggested. A submission that the entirety of an independent claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

In addition, applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that the references cited in the petition will be considered by the assigned examiner.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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SAN FRANCISCO, CA 94111-3834

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JUL 19 2006

TECHNOLOGY CENTER 2100

In re Application of: YAGAWA, YUICHI
Application No. 10/808,792
Filed: 24 March 2004
For: WORM PROVING STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 11 January 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make special the captioned application.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/808,800	03/24/2004	3711	385	KW03-001	5	16	2

CONFIRMATION NO. 6032

CORRECTED FILING RECEIPT

OC000000017124826

Stephen B. Ackerman
George O. Saile & Associates
28 Davis Avenue
Poughkeepsie, NY 12603

Date Mailed: 09/28/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jason Loke, Singapore, SINGAPORE;

Power of Attorney:

George Saile Jr–19572
Stephen Ackerman–37761

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/808,800

Projected Publication Date: 09/29/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Alphabet challenge deck

Preliminary Class

273

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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GEORGE O. SAILE & ASSOCIATES
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POUGHKEEPSIE NY 12603

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OFFICE OF PETITIONS

In re Application of
Jason Loke
Application No. 10/808,800
Filed: March 24, 2004
Attorney Docket No.: KWO3-001

ON PETITION

This is a decision on the petition filed December 7, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned November 1, 2007 for failure to timely pay the issue fee on or before October 31, 2007. Accordingly, a Notice of Abandonment was mailed November 28, 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

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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of
Tien-J Bao et al.
Application No. 10/808,801
Filed: March 25, 2004
Attorney Docket No. TS02-262CIP
(24061.480)

DECISION DISMISSING PETITION

This is a decision on the petition filed January 27, 2005 (certificate of mail date January 24, 2005), requesting that the above-identified application be accorded a filing date of March 25, 2004, with Page 21 of the specification as a part of the original disclosure.

After the application was filed, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application on November 24, 2004, stating that the application had been accorded a filing date of March 25, 2004, but that Page 21 of the specification (description and claims) appeared to have been omitted from the application.

In response, the present petition was filed. Petitioners argue that a complete application was present on March 25, 2004, for filing date purposes. Petitioners point to their postcard receipt as evidence that Page 21 of the specification was among the application papers filed on March 25, 2004.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard receipt fails to properly itemize the components allegedly filed in this application. The postcard receipt does not itemize the number of pages of specification filed, or a specification at all. A postcard receipt

will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

The petition is **DISMISSED**.

The copy of Page 21 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioner may file Page 21 as a preliminary amendment. If Page 21 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

Effective November 22, 2004, the petition fee has been increased from $130.00 to $400.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004 Petitioner's deposit account will be charged in the amount of $270. As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of March 25, 2004, using the application papers filed on that date and not page 21 of the specification submitted on petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Erwin Gelfand	: DECISION ON REQUEST FOR
Patent Number	: 7582300	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/808,846	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **815** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 082304

SEP 17 2004

Tracy M. Helms
Apex Juris, pllc
13194 Edgewater Lane Northeast
Seattle, Washington, 98125

In re Application of:	:	
Shin-Lin Lee	:	DECISION ON PETITION
Serial No.: 10/808851	:	TO MAKE SPECIAL
Filed: March 25, 2004	:	
Attorney Docket No.: **04-307**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 25, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a passport from Shin-Lin Lee showing that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton 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 : March 16, 2006

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/808853 Patent No.: 6,998,531

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Changes to the specification are typographical in nature.

Klean A. Reichard — **SPE**

2831 — **Art Unit**

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,998,531

DATED : February 14, 2006

INVENTOR(S) : Eric G. Hull

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6, line 63, change "tar" to -- that --.

Column 7, line 15, change "opening" to -- openings --.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,998,531

H. Duane Switzer
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114

No. of additional copies:

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

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APR 14 2010

OFFICE OF PETITIONS

In re Application of	:
Wang et al.	:
Application No. 10/808,872	: DECISION GRANTING PETITION
Filed: March 24, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 10209.476	: 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 October 14, 2009, 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 petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

The amendment submitted with the petition herein cannot be accepted since nonprovisional Application No 11/553,323 filed October 26, 2006 was filed later than the above identified application. The parent filing date must be earlier or equal to the current applications' filing date.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] deleting application No 11/553,323 is required.

[1] *Note* 37 CFR 1.121

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 Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/808,901	03/25/2004	2859	900	P/4319-30	4	13	1

CONFIRMATION NO. 8957

CORRECTED FILING RECEIPT

OC000000015271221

000002352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Date Mailed: 02/24/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ulrich Sielemann, Stuttgart, GERMANY;

Assignment For Published Patent Application

IMI Norgren-Herion Fluidtronic GmbH & Co. KG

Power of Attorney: The patent practitioners associated with Customer Number **2352**.

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 103 13 676.2 03/26/2003

If Required, Foreign Filing License Granted: 06/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/808,901

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Position-measuring device for fluidic cylinder-and-piston arrangements

Preliminary Class

033

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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CAMORIANO & ASSOCIATES
8225 SHELBYVILLE ROAD
LOUISVILLE, KY 40222

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OFFICE OF PETITIONS

In re Application of William B. Bellis, Sr. Application No. 10/808,906 Filed: March 25, 2004 Attorney Docket No. BEL.206	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 August 7, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor William B. Bellis, Sr. stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2625 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
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: TAKAHIRO NAKANO, et al.
Application No. 10/808,921
Filed: March 24, 2004
For: STORAGE SYSTEM, SERVER APPARATUS, AND METHOD FOR CREATING A PLURALITY OF SNASHOTS

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed April 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. 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

RP

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert Dehann, et al.	:	
Application No. 10/808,940	:	DECISION ON PETITION
Filed: March 24, 2004	:	TO WITHDRAW
Attorney Docket No. 4415.28USD1	:	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 Sara M. Monfeldt on behalf of herself.

Sara M. Monfeldt has been withdrawn as attorney; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, L.L.P.
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAILED
DEC 17 2004
Technology Center 2100

In re Application of: Kawamura et al.
Application No. 10/808,946
Filed: March 24, 2004
For: DATA PROCESSING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed October 1, 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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BAKER BOTTS LLP
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

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OFFICE OF PETITIONS

In re Application of :
Robert Aigner et al :
Application No. 10/808,949 : ON PETITION
Filed: March 25, 2004 :
Attorney Docket No. 068758.0180 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 21, 2005, 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 December 22, 2005. *See* MPEP 1215.04.

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 May 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and has been credit to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3729 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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THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77057

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of Henry W. Sullivan et al Application No. 10/808,955 Filed: March 25, 2004 Attorney Docket No. TIE TEK-001:D	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

The petition is **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 May 5, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 6, 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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HAMRE SCHUMANN MUELLER & LARSON PC
P O BOX 2902-0902
MINNEAPOLIS, MN 55402

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DEC 16 2005
OFFICE OF PETITIONS

In re Application of	:
Hideki Kitaura et al	:
Application No. 10/808,962	: DECISION GRANTING PETITION
Filed: March 24, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10873.1424US01	:

This is a decision on the petition, filed December 15, 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 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1774 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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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JUN 2 5 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Carl A. CASPERS :
Application No. 10/808,982 :
Filed: March 25, 2004 :
Attorney Docket No. 55508-296809 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 10,2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3738 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted December 10, 2007 in accordance with 37 CFR 1.114.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAR 28 2005

MAILED

MAR 28 2005

OFFICE OF THE DIRECTOR
TC 3600

PATRICK J S INOUYE P S
810 3rd Avenue
Suite 258
Seattle, WA 98104

In re application of
Andrew Fikes et al.
Application No. 10/808,993 :
Filed: March 24, 2004 :
For: SYSTEM AND METHOD FOR PROVIDING ON-LINE USER-ASSISTED WEB-BASED ADVERTISING :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 24, 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 condition A) above.

As to condition A), the attorneys listed in the request (Customer Number 22895) 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, Kulpreet Rana, Karl Sun, and Amin Zoufonoun are not associated with Customer No. 22895. If only the attorney listed in the request is to have power withdrawn and the remaining attorneys are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the other attorneys, or a statement that all attorneys of record, would need to be added to the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/26/05

OIPE JC130
APR 1 1 2005
PATENT & TRADEMARK OFFICE

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	10/808,993
Filing Date	March 24, 2004
First Named Inventor	Fikes, Andrew
Art Unit	3622
Examiner Name	Unassigned
Attorney Docket Number	025.0380.US.UTL

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED 5/25/05

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☒ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number

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: Pursuant to 37 CFR 10.40(b)(4), practitioner has been discharged by the client. Practitioner has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of another practitioner, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name	Kulpreet Rana				
Address	Google Inc. 1600 Amphitheatre Parkway, Bldg. 41				
City	Mountain View	State	CA	Zip	94043
Country					
Telephone	650-623-5123	Fax			
Signature					
Name	Patrick J.S. Inouye	Registration No.	40,297		
Date	April 8, 2005	Telephone No.	206-381-3900		

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.

O I P E JC130
APR 1 1 2005
PATENT & TRADEMARK OFFICE

Application Number: 10/808,993
Filing Date: March 24, 2004
First Named Inventor: Fikes, Andrew
Art Unit: 3622
Examiner Name: Unassigned
Attorney Docket No.: 025.0380.US.UTL

ATTACHMENT TO REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

List of Registration Numbers affected by this request:

40,297

O.I.P.E. JC130
APR 1 1 2005
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/808,993
Filing Date	March 24, 2004
First Named Inventor	Fikes, Andrew
Art Unit	3622
Examiner Name	Unassigned
Total Number of Pages in This Submission	Attorney Docket Number: 025.0380.US.UTL

ENCLOSURES *(Check all that apply)*

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance communication to (TC)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [X] Other Enclosure(s) (please identify below):

Request to Withdraw as Attorney or Agent
Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Law Offices of Patrick J.S. Inouye		
Signature			
Printed name	Patrick J.S. Inouye		
Date	April 8, 2005	Reg. No.	40297

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature	Larissa Pigott		
Typed or printed name	Larissa V. Pigott	Date	April 8, 2005

This collection of information is required by 37 CFR 1.5. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701-8489

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of	:	
HUISMAN, Jan W.	:	
Application No. 10/809,017	:	DECISION ON PETITION
Filed: March 25, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. VERTIS-4/CON/RCE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2007, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 17, 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)(II)(A)(2). Accordingly, the date of abandonment of this application is February 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; 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 $1020 extension of time fee submitted with the petition on July 11, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1762 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

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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OCT 11 2005

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re application of Lori Greiner Application No. 10/809,030 Filed: March 25, 2004 For: JEWELRY CABINET	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 6, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 6, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 9/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

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DEC 24 2008

In re Application of
Lori Greiner
Application No. 10/809,030
Filed: March 25, 2004
Attorney Docket No. 47636.39.2

ON PETITION

This is a decision in response to the petition, filed September 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 17, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 18, 2008. On September 25, 2008, the present petition was filed, along with an amendment and a 3-month petition for extension of time. A Notice of Abandonment was subsequently mailed on October 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 $770; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted September 25, 2008 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., August 15, 2007. Since no extension of time fees are due on a petition for revival, the $525 extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3637 for consideration of the amendment filed September 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MOETTELI & ASSOCIES SARL
CASE POSTALE 486
GENEVA CH-12-11 CH SWITZERLAND

In re Application of	:	
Robert Allan Young et al	:	
Application No. 10/809,034	:	DECISION ON PETITION
Filed: March 25, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. PUS-P001-041	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 23, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3733 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Scott E. Dart	: DECISION ON REQUEST FOR
Patent Number	: 7614009	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/809,050	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1173** 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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JOHN L. ADAIR
SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN, TX 78705

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Cosby et al.	:	DECISION ON PETITION
Application No. 10/809,056	:	TO WITHDRAW
Filed: March 25, 2004	:	FROM RECORD
Attorney Docket No. 034430-000067	:	

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 6, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 13, 2006 the power of attorney to Sprinkle IP Law Group was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Hickman Palermo Truong & Becker/Oracle
2055 Gateway Place
Suite 550
San Jose CA 95110-1083

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 Mailed: :June 3, 2010
Patent No. : 7,688,643 B2
Ser. No. :10/809061
Issued : October 10, 2006
Inventor(s) Karl M. J. Lofgren, et al.
Title : DEVICE AND METHOD FOR CONTROLLING SOLID-STATE MEMORY SYSTEM

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, attorney agent/firm) 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 1.17(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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Davis, Wright, Tremaine LLP
505 Montgomery Street, Ste. 800
San Francisco, CA 94111-6533

MD/mt

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ALEXANDRIA, VA 22313-1450
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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of	:	
MEDHAT	:	
Application No.: 10/809,066	:	DECISION ON PETITION
Filing Date: March 15, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 135-0051US (AES-04-001)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 22, 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 August 23, 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. Accordingly, the reply to the non-final Office action mailed May 22, 2006 is accepted as having been unintentionally delayed.

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 2884 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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LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY, NC 27512

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SEP 21 2006
OFFICE OF PETITIONS

In re Application of	:	
J. David Carlson, et. al.	:	
Application No. 10/809,084	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. IR-2803 (EV) CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed October 18, 2004. A Notice of Abandonment was mailed on July 15, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of a specification, preliminary amendment and a four (4) month extension of time filed on July 21, 2005. However, 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 $1,590 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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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CARY NC 27512-8012

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Carlson et al.	:	
Application No. 10/809,084	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. IR-2803 (EV) CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 27, 2009, 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 Terminal Disclaimer, (2) the petition fee, and (3) a proper 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). Accordingly, since the $1,110.00 extension of time fee submitted with the petition on January 27, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3657 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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CARY, NC 27512-8012

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OFFICE OF PETITIONS

In re Application of
J. David Carlson et al
Application No. 10/809,084
Filed: March 25, 2004
Attorney Docket No. IR-2803(EV)CIP

ON PETITION

This is a decision on the petition filed September 30, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed June 29, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 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 payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH, VA 22040-0747

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MAR 03 2008

In re Application of	:
Alexander Torone, et. al.	:
Application No. 10/809,088	: DECISION ON PETITIONS
Filed: March 25, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 5486-0125PUS1	:

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed November 28, 2007, 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.

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 2825, 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

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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
10/809,088	03/25/2004	2825	856	5486-0125PUS1	18	4

CONFIRMATION NO. 7665

CORRECTED FILING RECEIPT

67321
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH, VA 22040-0747

OC000000028589890

Date Mailed: 03/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Alexander Torone, Sammamish, WA;
Geoffrey Outhred, Seattle, WA;
David S. Noble, Redmond, WA;
William E. Gibson, Woodinville, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number 67321

Domestic Priority data as claimed by applicant

This application is a CIP of 10/789,440 02/26/2004 PAT 7,072,807
which claims benefit of 60/452,736 03/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/809,088**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Settings and constraints validation to enable design for operations

Preliminary Class

716

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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Jeffrey C. Hood
Meyertons, Hood, Kivlin, Kowert & Goetzel
PC
P.O. Box 398
Austin, TX 78767

Mail Date: 04/21/2010

Applicant	: Christopher G. Cifra	: DECISION ON REQUEST FOR
Patent Number	: 7650589	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/809,091	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/809,097	03/25/2004	2863	493	090936.0519	2	15	4

CONFIRMATION NO. 6662

CORRECTED FILING RECEIPT

OC000000015431356

31625
BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

Date Mailed: 03/11/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Thomas B. Morrow, San Antonio, TX;
Thomas E. Owen, Helotes, TX;

Assignment For Published Patent Application

Southwest Research Institute

Power of Attorney: The patent practitioners associated with Customer Number **31625**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/458,049 03/27/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/809,097

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Indirect measurement of diluents in a multi-component natural gas

Preliminary Class

702

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
Suite 2850
200 West Adams St.
Chicago IL 60606

In re Patent No. 7,554,117	:	
Osamu Nakamura	:	DECISION DISMISSING
Application No. 10/809,118	:	REQUEST FOR
Issue Date: June 30, 2009	:	RECONSIDERATION OF
Filed: March 25, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 0053-0404	:	UNDER 37 CFR 1.705(d)

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINAION, filed August 14, 2009. Patentee requests that the determination of patent term adjustment be corrected from eight hundred forty-one (841) days to one thousand three hundred twenty-eight(1,328) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 841 days.

BACKGROUND

On June 30, 2009, the application matured into U.S. Patent No. 7,554,117, with a revised patent term adjustment of 841 days. The Office determined that the 670 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under

the 845 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 845 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 4 days, the patent issued with a revised patent term adjustment of 841 (845 - 4) days.

On August 14, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,328 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same calendar day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1,332 (845 + 487) days as these periods do not occur on the same day. Further, given the applicant delay of 4 days, patentee asserts entitlement to 1,328 (1,332 - 4) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on January 23, 2009, the application was pending three years and 670 days.

As explained in *Explanation of 37 CFR 1.703(f)*[3] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is

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[3] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), March 25, 2004, and ending on the day before the date of filing of a request for continued examination (RCE), January 23, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE, as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 845 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 670 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 670 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 845 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 670 days and the 845 days is neither permitted nor warranted. 845 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of patent term adjustment, having considered the 670 days of Office delay under the three-year pendency provision.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 841 days.

Pursuant to patentee's authorization, deposit account no. 50-1039 will be charged the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
Suite 2850
200 West Adams St.
Chicago IL 60606

MAILED

MAR 2 6 2010

OFFICE OF PETITIONS

In re Patent No. 7,554,117	: DECISION ON REQUEST
Nakamura	: FOR
Issue Date: June 30, 2009	: RECONSIDERATION OF
Application No. 10/809,118	: PATENT TERM ADJUSTMENT
Filed: March 25, 2004	: and
Atty Docket No. 0553-0404	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on December 3, 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 three hundred twenty-eight (1328) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-eight (1328) is **GRANTED**.

The Office acknowledges previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on August 14, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred twenty-eight (1328).**

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,554,117 B2

DATED : **June 30, 2009** **DRAFT**

INVENTOR(S) : Nakamura

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 841 days

Delete the phrase "by 841 days" and insert – by 1328 days--

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JEMES L. NEAL
5403 BRAEBOURNE ROAD
ROGERS AR 72758

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Harry Frederick Bowman	:	
Application No. 10/809120	:	DECISION DISMISSING PETITION
Filed: 03/24/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TTI-03	:	

This is a decision on the petition filed on 29 June, 2007, which is treated as a petition under 37 CFR § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Applicant did not indicate the relationship between the present application and prior-filed nonprovisonal Application No. 10/364,773 in the amendment filed concurrently with the present petition.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet, signed in compliance with 37 CFR1.33(b), or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/809,120	03/24/2004	3736	385	TTI-03	7	9	3

CONFIRMATION NO. 7721

Jemes L. Neal
5403 Braebourne Road
Rogers, AR 72758

FILING RECEIPT

OC000000012909940

Date Mailed: 06/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Harry Frederick Bowman, Needham, MA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/364,773 02/11/2003
and claims benefit of 60/458,100 03/26/2003

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

**** SMALL ENTITY ****

Title

Blood flow monitor with venous and arterial sensors

Preliminary Class

600

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of	:
Harry Frederick Bowman	:
Application No. 10/809120	: DECISION ON PETITION
Filed: 03/24/2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TTI-03	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on 19 September, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3735 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
10/809,120	03/24/2004	3735	385	TTI-03	9	3

CONFIRMATION NO. 7721

CORRECTED FILING RECEIPT

Jemes L. Neal
5403 Braebourne Road
Rogers, AR 72758

OC000000026577758

Date Mailed: 11/01/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Harry Frederick Bowman, Needham, MA;

Power of Attorney:
James Neal--23097

Domestic Priority data as claimed by applicant

This application is a CIP of 10/364,773 02/11/2003 PAT 6,913,576
and claims benefit of 60/458,100 03/26/2003
and said 10/364,773 02/11/2003
is a CON of 09/733,595 12/08/2000 PAT 6,565,516
which is a DIV of 08/946,366 10/07/1997 PAT 6,203,501
which is a DIV of 08/106,068 08/13/1993 PAT 5,797,398

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/809,120**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Blood flow monitor with venous and arterial sensors

Preliminary Class

600

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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PATRICK G. BURNS, ESQ.
GREER, BURNS & CRAIN, LTD.
SUITE, 2500
300 SOUTH WACKER DR.
CHICAGO, IL 60606

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Shingo Kataoka, et al.	:	
Application No. 10/809,126	:	DECISION GRANTING PETITION
Filed: March 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1324.70173	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Robert Costa	: DECISION ON REQUEST FOR
Patent Number	: 7635673	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/809,144	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **125** 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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UT-BATTELLE, LLC
Office of Intellectual Property
One Bethal Valley Road
4500N, MS-6258
Oak Ridge, TN. 37813

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OFFICE OF PETITIONS

In re Application of	:	
Mariappan P. Paranthaman et al	:	
Application No. 10/809,174	:	DECISION ON PETITION
Filed: March 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1323	:	37 C.F.R. § 1.102(c)
	:	

This is a decision on the petition under 37 CFR 1.102(c), filed on March 23, 2004, to make the above-identified application special based on superconductivity technologies as set forth in M.P.E.P. § 708.02, Section IX.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IX: Special Status for Patent Applications Relating to Superconductivity, must be accompanied by a statement that the invention involves superconductive materials. Examples of such inventions would include those directed to superconductive materials themselves as well as to their manufacture and application. No fee is required.

The instant petition includes a statement under 37 CFR 1.102 that the invention involves superconductive materials. The invention is directed to a structure having an iridium substrate in a biaxially textured buffer system. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1754 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of:
CAMP, William O., Jr.
Application No.: 10/809,179
Filed: March 25, 2004
Attorney Docket No.: 9314-68

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

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BARKUME & ASSOCIATES, P.C.
20 GATEWAY LANE
MANORVILLE NY 11949

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Postrel, Richard	:	
Application No. 10/809,185	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. 370-029IB	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to Office Action, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3692 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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20 GATEWAY LANE
MANORVILLE NY 11949

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MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:
Postrel, Richard	:
Application No. 10/809,185	: DECISION GRANTING PETITION
Filed: March 25, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 370-029IB	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/791,149, filed March 1, 2004, as set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 prior-filed nonprovisional Application No. 10/791,149, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3692 for appropriate action on the amendment filed February 17, 2009, 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.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/809,185	03/25/2004	3692	2460	370-029IB	100	2

CONFIRMATION NO. 6011

CORRECTED FILING RECEIPT

24002
BARKUME & ASSOCIATES, P.C.
20 GATEWAY LANE
MANORVILLE, NY 11949

OC000000035816940

Date Mailed: 05/05/2009

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)

Richard Postrel, Miami Beach, FL;

Power of Attorney:
Anthony Barkume--33831

Domestic Priority data as claimed by applicant

This application is a CIP of 10/791,149 03/01/2004
and is a CIP of 10/608,736 06/27/2003 PAT 6,820,061
which is a CON of 09/602,222 06/23/2000 PAT 6,594,640
which claims benefit of 60/140,603 06/23/1999
This application 10/809,185
claims benefit of 60/552,689 03/12/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/809,185**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and system for issuing, aggregating and redeeming merchant loyalty points with an issuing bank

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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The Webb Law Firm, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Joseph Tripodi, et. al. :
Application No. 10/809,188 : ON PETITION
Filed: March 25, 2004 :
Attorney Docket No. 0644-031737 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

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 January 7, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight April 7, 2005.

In response to the Notice of Allowance, petitioner hereby submits $1,500 for the petition to revive fee, $1,400 for the issue fee, $300 for the publication fee, $30 for ten (10) advance soft copies and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Office acknowledges receipt of an Amendment under 37 CFR 1.312, filed March 25, 2005. Therefore, this application is being referred to Technology Center Art Unit 1724, for consideration of the Amendment as having been received prior to payment of the issue fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Joseph Tripodi, et. al.	:	
Application No. 10/809,188	:	CORRECTED DECISION
Filed: March 25, 2004	:	
Attorney Docket No. 0644-031737	:	

This is a corrected decision on the petition under 37 CFR 1,182, filed February 17, 2005, to change the order of inventors.

The decision mailed June 12, 2005 is hereby vacated.

The petition is **GRANTED**.

The order of the inventors will be changed as follows:

1. Joseph Tripodi
2. Carl R. Nicolia
3. Douglas R. Wroblewski
4. Robert J. Burnham

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

The Office acknowledges receipt of an Amendment under 37 CFR 1.312, filed March 25, 2005. Therefore, this application is being referred to Technology Center Art Unit 1724, for consideration of the Amendment as having been received prior to payment of the issue fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrew Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt