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OFFICE OF PETITIONS

CASTELLANO MALM FERRARIO & BUCK PLLC
2121 K STREET, NW
SUITE 800
WASHINGTON DC 20037

In re Application of
LEE
Application No.: 10/819,994
Attorney Docket No.: 0218.005.0002

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

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 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 Notice to File Corrected Application Papers mailed June 23, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on August 23, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of substitute drawings, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of June 23, 2004 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3732.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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OFFICE OF PETITIONS

In re Application of :
Aldo Salvestro :
Application No. 10/820,051 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket Number: 91443 MGB

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2006, to revive the above-identified application. This petition is being treated as a petition under 37 CFR 1.181.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of January 24, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 25, 2006. A Notice of Abandonment was mailed September 20, 2006.

Petitioner contends a reply to the non-final Office Action was submitted on April 24, 2006. In support of petitioner's contention a copy of the amendment which contains a certificate of mailing pursuant to 37 CFR 1.8. The communication was matched to the serial number identified in the communication, namely, serial No. 10/739,057. The communication did not timely reach the correct application (10/820,051) due to petitioner's error. As a result of this error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of

correspondence prior to submission to the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Since the original documents have been closed, the copy of the documents submitted with petition will be used for examination purposes.

This application is being forwarded to Technology Center 2800 for further processing.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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DEC 31 2008

In re Application of :
Nishimura :
Application No. 10/820,057 : DECISION ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. LB-723-1495 :

This is a decision on the petition, filed October 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 March 31, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on .

Petitioner asserts that the Office action dated March 31, 2008 was not received.

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

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

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

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

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

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

In view of the above, the October 14, 2008 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2628 for re-mailing the Office action of March 31, 2008. The period for reply will run from the mailing date of the Office action.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Mail Date: 04/26/2010

Applicant	: Alana King	: DECISION ON REQUEST FOR
Patent Number	: 7653587	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/820,071	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1025** 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

Christie, Parker, & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of :

Nicolas Garcia :
Application No. 10/820,076 : DECISION ON PETITION
Filed: April 7, 2004 : TO WITHDRAW
Attorney Docket No. 52375/G470 : 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, 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 Robert A. Green, David A. Dillard and Thomas J. Daly on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor Nicolas Garcia at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed December 26, 2006.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nicolas Gracia**
2107 W. Commonwealth Avenue
#447
Alhambra, CA 91803

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ROBERT C. HYLA
601 W. FIRST AVENUE
STE. 1300
SPOKANE, WA 99201

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Nicolas GARCIA	:	
Application No. 10/820,076	:	DECISION ON PETITION
Filed: April 7, 2004	:	
Attorney Docket No. 52375/G470	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 26, 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 January 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election and amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received March 6, 2008.

April Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/820,076	04/07/2004	Nicolas Garcia	52375/G470

CONFIRMATION NO. 7226

21567
WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

POA ACCEPTANCE LETTER

OC000000030185200

Date Mailed: 05/29/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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

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SYNTHES
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

Mail Date: 04/21/2010

Applicant	: Paul Ciccone	: DECISION ON REQUEST FOR
Patent Number	: 7604643	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,080	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **487** 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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STONEMAN VOLK PATENT GROUP
3770 NORTH 7TH STREET, SUITE 100
PHOENIX AZ 85014

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of

DAVILA, Jill M.
Application No. 10/820,094
Filed: April 06, 2004
Attorney Docket No. **P03878**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 16, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michael Volk on behalf of all attorneys of record who are associated with customer No. 28548. All attorneys/agents associated with the Customer Number 28548 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Jill Davila at the address indicated below
There is an outstanding Office action mailed March 02, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JILL M. DAVILA**
5218 E. TUNDER CIRCLE
PHOENIX AZ 85044

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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OCT 2 0 2008

OFFICE OF PETITIONS

In re Application of :
David J. Augeri, et. al. :
Application No. 10/820,097 : DECISION ON PETITION
Filed: April 7, 2004 :
Attorney Docket No. 6735USD1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **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 April 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 that prima facie places the application in a condition for allowance; (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 1621for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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JUL 13 2005

In re Application of		:	
David C. Issler		:	DECISION ON PETITION
Serial No.	10/820,110	:	
Filed:	April 7, 2004	:	
For:	ONE-PIECE SHOE CONSTRUCTION WITH IMPROVED VENTILATION	:	

This is a decision on the petition to make special filed on August 30, 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 petitioners have 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 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 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Gene S. Winter, Esq.
St. Onge Steward Johnsonton & Reens, LLC
986 Bedford Street
Stamford, CT 06905-5619

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Yoshihiko Imanaka	: DECISION ON REQUEST FOR
Patent Number	: 7579251	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **109** 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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 05/17/2010

Applicant : Yoshihiko Imanaka
Patent Number : 7579251
Issue Date : 08/25/2009
Application No: 10/820,114
Filed : 04/08/2004

: 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 **171** 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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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Duncan, et al. :
Application No. 10/820,115 : DECISION ACCORDING STATUS
Filed: April 7, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. AM100089 :
For: PROCESS FOR THE SYNTHESIS OF 3-CYANO-6-ALKOXY-7-NITRO-4-QUINOLONES :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 28, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventor, Miguel Angel Pagan, cannot be located. Specifically, the declaration/statement of facts of Attorney Joy S. Goudie establishes that despite attempts to locate the inventor through the mail, through inquiries of his former employers and co-inventor, and through other information database searches, that Mr. Pagan cannot be located. Petitioners have dilgently searched for Mr. Pagan. 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. A late declaration surcharge of $130.00 37 CFR 1.16(e) will be charged to deposit account no. 01-1425, because the original declaration was not acceptable until Rule 47 status was granted and that petition was filed well after the filing date of this application.

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 Publications Division.

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

E. Shirene Willis
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

MIGUEL ANGEL PAGAN
126 ROBBINS ROAD
MOUNT HOPE, NY 10932

In re Application of :
Duncan, et al. :
Application No. 10/820,115 : LETTER
Filed: April 7, 2004 :
Attorney Docket No. AM100089 :
For: PROCESS FOR THE SYNTHESIS OF 3-CYANO-6-ALKOXY-7-NITRO-4-QUINOLONES :

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APR 28 2005
OFFICE OF PETITIONS

Dear Mr. Pagan:

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: WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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P.O. Box 1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

OCT 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Yosuke Kawakubo :
Application No. 10/820,129 : DECISION ON PETITION
Filed: April 8, 2004 : TO MAKE SPECIAL
For: STORAGE UNIT :

This is a decision on the petition filed September 14, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Keiri Yoshioka and Chris Toshimi Mizumoto :
Application No. 10/820,165 :
Filed: April 6, 2004 :
Attorney Docket No. 09868/0200586-US0 :
Title: GAME MACHINE AND GAME SYSTEM :

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 October 22, 2004.

On April 6, 2004, the application was deposited, identifying Keiri Yoshioka and Chris Toshimi Mizumoto as joint inventors. No oath or declaration was included on filing. On June 22, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration, a surcharge of $65.00, the basic filing fee, and additional claim fees were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the petition fee, the surcharge associated with the late submission of an oath or declaration, the basic filing fee, and the fee for the filing of additional claims. Petitioner has also included a two-month extension of time to make timely this response, as well as a declaration which has been executed by joint inventor Mizumoto, the last known address of non-signing inventor Yoshioka, and a copy of a letter which was sent to the non-signing inventor.

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.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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P. O. BOX 5257
NEW YORK NY 10150-5257

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Keiri Yoshioka :
Application No. 10/820,165 :
Filed: April 6, 2004 :
Attorney Docket No. 09868/0200586-US0 :
Title: GAME MACHINE AND GAME SYSTEM :

CORRECTION OF DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is a correction to the decision on the petition under 37 C.F.R. §1.47(b)[1], mailed January 4, 2005.

The decision incorrectly stated that the petition was a petition under 37 C.F.R. §1.47(a), and that Petitioner is a joint inventor.

The decision of January 4, 2005 is hereby **VACATED**.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(b) status.

A corrected letter will be sent to the non-signing inventor.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

---

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Keiri Yoshioka
Prestige Akasaka, Unit 303
1313-5 Kozono, Ayase-City
Kanawaga-Ken
JAPAN

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :

Keiri Yoshioka :
Application No. 10/820,165 :

Filed: April 6, 2004 : CORRECTED LETTER
Attorney Docket No. 09868/0200586-US0 :
Title: GAME MACHINE AND GAME SYSTEM :

Dear Mr. Yoshioka:

On January 4, 2005, a letter was sent to you which indicated that you were not the sole inventor for the above-identified application. This letter was sent in error.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 19 2006

OFFICE OF PETITIONS

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET
2ND FLOOR
PALO ALTO CA 94306

In re Application of :
Faul, et al. :
Application No. 10/820, 169 : DECISION ON PETITION
Filed: April 6, 2004 : TO WITHDRAW
Attorney Docket No. S03-013/US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: The Board of Trustees of the
Leland Stanford Junior University
Office of Technology Licensing
1705 El Camino Real
Palo Alto, CA 94306

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Bernard R. Pierce	: DECISION ON REQUEST FOR
Patent Number	: 7657889	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 23 2008

OFFICE OF PETITIONS

In re Application of :
Kyu Hyun Choi :
Application No. 10/820,189 :
Filed: April 6, 2004 :
Attorney Docket No. 021801-001110US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on June 14, 2006, to revive the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed February 27, 2006. A Notice of Abandonment was mailed on June 26, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Office acknowledges receipt of $750 for treatment of the instant petition and $395 for the filing of a Request for Continued Examination under 37 CFR 1.114. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee, publication fee or any portion thereof, the required reply must be the payment of the issue fee, publication fee or any outstanding balance thereof. *See* MPEP 711.03(c)(II)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). Therefore, petitioner must submit $720 for payment of the issue fee and $300 for payment of the publication fee before revival can occur.

If petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned with the renewed petition.

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

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

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

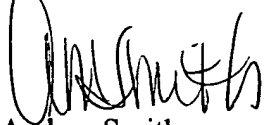
By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

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



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Fee(s) Transmittal Form

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.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

ROBERT R. THORNTON
3264 MEADOWLARK LANE
CARLSBAD CA 92008-2024

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Bruce B. Bealke et al. :
Application No. 10/820,193 :
Filed: April 6, 2004 :
Attorney Docket Number: BEALKE-3 :
Title: DOUBLE BLIND EVALUATION METHOD FOR MALPRACTICE CLAIMS :

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

This is a decision on the petition filed March 8, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 21, 2004, which indicated that $145 was due for the filing of a multiple dependent claim and 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 22, 2004.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the required statement of unintentional delay. A terminal disclaimer is not required.

Petitioner has further submitted an amendment, which cancels the multiple dependent claim, and thus constitutes the required reply.

As such, the petition is **GRANTED**.

The Office of Initial Patent Examination will be notified of this decision.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED

NOV 22 2006

OFFICE OF PETITIONS

In re Application of :
Ralph Mitchell :
Application No. 10/820,198 : DECISION ON PETITION
Filed: April 6, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 27811-002 UTIL : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed July 10, 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)

The instant invention is directed to a method of insuring military reserve personnel and an insurance policy for military reserve personnel. That the instant invention could potentially persuade reservists from leaving military service, as alleged in the instant petition, does not in itself meet the materiality standard since 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. Additionally, further steps would be required to actually offset or nullify terrorism. 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 Ramesh Krishnamurthy at 571-272-4914, or the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 3626 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Richard Lunak	: DECISION ON REQUEST FOR
Patent Number	: 7568627	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **286** 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 05/18/2010

Applicant : Richard Lunak
Patent Number : 7568627
Issue Date : 08/04/2009
Application No: 10/820,213
Filed : 04/07/2004

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

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

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

The patent term adjustment has been determined to be **379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 27 2006

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:
Inga Reynisdottir et al	:
Serial No.: 10/820,226	: PETITION DECISION
Filed: April 7, 2004	:
Attorney Docket No.: 2345.2049-006	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed October 28, 2004. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record shows that the required amendment to the specification has not been made (or if made, cannot be found). Further, it appears that the required three sets of color drawings did not accompany the petition (or have been misidentified or have been misplaced by the Office).

Applicants are requested to submit the drawings and an appropriate amendment to the specification is a separate paper accompanied by a renewed petition. No additional petition fee is required.

The petition is **DISMISSED** for the reasons noted above.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

George Elliott
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
P. O. BOX 10500
McLEAN, VA 22102

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Joannes Theodoor De Smit et al :
Application No. 10/820,227 : DECISION GRANTING PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081468-0309173 :

This is a decision on the petition, filed August 1, 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 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\820227.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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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

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SEP 05 2007

OFFICE OF PETITIONS

In re Application of :
Zhengyu Ma et al :
Application No. 10/820,262 : DECISION ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. CHOP.0190US :

This is a decision on the petition under 37 CFR 1.182, filed July 20, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The fee for the filing of a petition under 37 CFR 1.182 is $400 and not $130. Accordingly, the $270 balance of the fee due for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The Application Data Sheet submitted with the petition is not signed in accordance with 37 CFR 1.33(b). Therefore, an executed Supplemental Application Data Sheet should be submitted.

This application is currently before the Examiner for appropriate action on the reply received June 15, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/820,262	04/08/2004	1641	450	CHOP.0190US	15	1

CONFIRMATION NO. 8961

110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

CORRECTED FILING RECEIPT

OC000000025671173

Date Mailed: 09/04/2007

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)

Zhengyu Ma, Philadelphia, PA;
Terri H. Finkel, Wynnewood, PA;

Power of Attorney:

Patrick Hagan--27643
Kathleen Rigaut--43047

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/461,223 04/08/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/820,262

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Fluid planar lipid layer-based membrane-anchored ligand system with defined ligand valency and methods of use thereof

Preliminary Class

435

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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COMMISSIONER FOR PATENTS
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THOMAS, KAYDEN, HOSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Wu, et al. :
Filed: June 8, 2004 : ON PETITION
Application No. 10/820,320 :
Atty. Dkt. No.: 252016-1921 :

This decision is in response to the "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION AND PETITION TO ACCORD THIS DIVISIONAL APPLICATION A FILING DATE OF JUNE 8, 2004" filed June 13, 2005 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed May 13, 2005.

The application was filed June 8, 2004. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required.

In response, petitioners argue that the application as deposited included three pages of drawings. Petitioners have included as proof of mailing and proof of receipt of three sheets of drawings a return postcard date stamped by the Office on June 8, 2004. A copy of the three drawings sheets purportedly filed with the application on June 8, 2004 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of June 8, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. The previously submitted petition fee has been refunded via deposit account credit.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 8, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS, KAYDEN, HOSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Wu, et al. : CORRECTED DECISION
Filed: April 8, 2004 : ON PETITION
Application No. 10/820,320 :
Atty. Dkt. No.: 252016-1921 :

This decision corrects the decision mailed August 5, 2005 in response to the "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION AND PETITION TO ACCORD THIS DIVISIONAL APPLICATION A FILING DATE OF APRIL 8, 2004" filed June 13, 2005 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed May 13, 2005.

The application was filed April 8, 2004. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required.

In response, petitioners argue that the application as deposited included three pages of drawings. Petitioners have included as proof of mailing and proof of receipt of three sheets of drawings a return postcard date stamped by the Office on April 8, 2004. A copy of the three drawings sheets purportedly filed with the application on April 8, 2004 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of April 8, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. The previously submitted petition fee was previously refunded via deposit account credit.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 8, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/820,322	04/07/2004	2877	1096	SENS0011CIP	11	99	2

CONFIRMATION NO. 8527

CORRECTED FILING RECEIPT

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

OC000000014158093

Date Mailed: 10/25/2004

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)

George Acosta, Phoenix, AZ;
James R. Henderson, Phoenix, AZ;
N. Alan Abul Haj, Mesa, AZ;
Timothy L. Ruchti, Gilbert, AZ;
Stephen L. Monfre, Gilbert, AZ;
Thomas B. Blank, Chandler, AZ;
Kevin H. Hazen, Gilbert, AZ;

Power of Attorney:

Michael A. Glenn--30176
Donald Hendricks--40355
Kirk Wong--43284
Christopher Peil--45005
Ivy Mei--46925
Julia Thomas--52283
Kevin Hazen--53006

Domestic Priority data as claimed by applicant

This application is a CIP of 09/877,529 06/08/2001 ABN
which is a CIP of 09/415,389 10/08/1999 PAT 6,411,373
and claims benefit of 60/211,852 06/15/2000
This application 10/820,322
is a CIP of 10/472,856 09/18/2003
which is a 371 of PCT/US03/07065 03/07/2003
which claims benefit of 60/362,885 03/08/2002
and claims benefit of 60/362,899 03/08/2002
and claims benefit of 60/448,840 02/19/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/820,322

Projected Publication Date: 01/27/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compact apparatus for noninvasive measurement of glucose through near-infrared spectroscopy

Preliminary Class

356

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 has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JAN 0 4 2008

OFFICE OF PETITIONS

PULSE-LINK INC
1969 KELLOGG AVENUE
CARLSBAD CA 92008

In re Application of :
John Santhoff :
Application No. 10/820,328 : DECISION ON PETITION
Filed: April 7, 2004 :
Attorney Docket No. 029C-125 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 7, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed May 18, 2007. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on November 27, 2007, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on November 26, 2007. The Amendment was made timely with a three month extension of time, and with a Certificate of Mailing dated November 16, 2007. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 2611 for consideration of the Amendment filed November 26, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JJGJr: 09-04

Paper No: __

LAW OFFICE OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON AZ 85728-4775

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SEP 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Busuito :
Application No. 10/820,340 : ON PETITION
Filed/Deposited: 8 April, 2004 :
Attorney Docket No. BUS-001 :

This is a decision on the petition filed on 16 August, 2004, nominally as a response to the Notice of Omitted Items, and considered under 37 C.F.R. §1.53, to obtain a filing date of 8 April, 2004, for Pages 3 and 11 of the Specification (Description).

For the reasons set forth below, the petition is **DISMISSED**.

BACKGROUND

This application was deposited on 8 April, 2004.

On 5 August, 2004, the Office mailed a Notice of Omitted Items in a Nonprovisional Application (the 5 August Notice) indicating that, while a filing date had been accorded, it appeared that Page(s) 3 and 11 (Specification (description)) had been omitted. Further, Petitioner was reminded that the alternatives were to accept the filing date and the application in the form deposited, or submit evidence (date stamped receipt card) that the Office received the pages in question (along with substitute copies of the pages), or submit the omitted items (pages) and accept the new filing date as of the date of their submission.

Petitioner submitted a petition, fee, copies of what purports to be Pages 3 and 11 of the Specification (Description) and a copy of a receipt card.

Analysis

A search of the official file reveals that on 8 April, 2004, Petitioner deposited the instant application with 9 pages of specification (pages 1 - 2, and 4 - 10), 4 pages of claims (pages 12 - 15), 1 page abstract (page 16), and 4 sheets of drawings Figures 1 - 4. At that time and that deposit neither Pages 3 nor 11 accompanied the application as deposited.

Petitioner's date-stamped receipt card ("040804") sets forth the contents received by the Office, inter alia, as:

* * *

Specification 11 pages with Abstract
20 Claims on 4 pages

* * *

4 Drawing on 4 Pages

* * *

Here the issue is determination as to whether Petitioner intended that his statement meant that the 11 pages included both Specification and Abstract, or that there were 11 pages of Specification plus a page of Abstract.

At this writing, Petitioner has failed to specify which meaning was intended. Petitioner may submit such a statement in support of a renewed petition, if any, in this regard and do so within two (2) months of the date of this decision.

CONCLUSION

The petition is **dismissed**.

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

By mail: (Effective 1 May, 2003)[1]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

By FAX: IFW Formal Filings
(571) 273-0025
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

The instant application is released to OIPE for further processing as necessary consistent with this decision, maintaining the original application filing date of 8 April, 2004, using the application papers filed on that date, and an indication that drawing Pages 3 and 11 **were not** present on filing, before being forwarded for examination in due course.

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

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

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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ATTN: WILLIAM J. DAVIS, ESQ.
INTERNATIONAL SPECIALTY PRODUCTS
BUILDING NO. 10
1361 ALPS ROAD
WAYNE, NJ 07470

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APR 24 2008

OFFICE OF PETITIONS

In re Application of :
John J. Merianos et al :
Application No. 10/820,349 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. FDN-2837 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 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 March 1, 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 June 2, 2007.

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 1614 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John F. Kane
P.O. Box 8801
Dayton, OH 45401-8801

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of:
Kyoji Sekiguchi
Application No. 10/820369
Filing or 371(c) Date: 04/08/2004
Attorney Docket Number: 1232-5368

ON PETITION

This Decision is in response to the Petition and Request Under 35 U.S.C. § 254 for Issuance of Corrected Patent," filed July 14, 2008. The request is properly treated as a petition under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

Petitioner files the present petition to correct the name of the inventor from Kiyoji Sekiguchi to Kyoji Sekiguchi. Petitioner asserts that the nature of the error is such that a Certificate of Correction is inappropriate in form because there is a tendency for Certificate of Correction to become separated from printed copies of the patent, and that patents in electronic media may not always be accompanied by their corresponding certificate of Correction. Therefore, the issuance of a corrected patent is more appropriate due to the substantive nature of the error.

Applicable Law, Rules and MPEP

37 CFR 1.322, Certificate of correction of Office mistake.
(a)
(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:
(i) At the request of the patentee or the patentee 's assignee;
(ii) Acting sua sponte for mistakes that the Office discovers; or
(iii) Acting on information about a mistake supplied by a third party.
(2)

(i) There is no obligation on the Office to act on or respond to a submission of information or request to issue a certificate of correction by a third party under paragraph (a)(1)(iii) of this section.
(ii) Papers submitted by a third party under this section will not be made of record in the file that they relate to nor be retained by the Office.
(3) If the request relates to a patent involved in an interference, the request must comply with the requirements of this section and be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.
(4) The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record) at the correspondence address of record as specified in § 1.33(a) and affording the patentee or an assignee an opportunity to be heard.
(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

The MPEP 1480 explains as follows:

Mistakes incurred through the fault of the Office may be the subject of Certificates of Correction under 37 CFR 1.322. The Office, however, has discretion under 35 U.S.C. 254 to decline to issue a Certificate of Correction even though an Office mistake exists. If Office mistakes are of such a nature that the meaning intended is obvious from the context, the Office may decline to issue a certificate and merely place the correspondence in the patented file, where it serves to call attention to the matter in case any question as to it subsequently arises. Such is the case, even where a correction is requested by the patentee or patentee's assignee.
In order to expedite all proper requests, a Certificate of Correction should be requested only for errors of consequence. Instead of a request for a Certificate of Correction, letters making errors of record should be utilized whenever possible. Thus, where errors are of a minor typographical nature, or are readily apparent to one skilled in the art, a letter making the error(s) of record can be submitted in lieu of a request for a Certificate of Correction. There is no fee for the submission of such a letter.

The MPEP 605.04(b), in discussing corrections of the spelling of an inventor's name, provides:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee. Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee. The petition should be directed to the attention of the Office of Petitions. Upon granting of the petition, if the application is maintained in paper, the left margin of the original oath or declaration should be marked in red ink "See paper No. ___ for correction of the inventor's name,"

and the application should be sent to the Office of Initial Patent Examination (OIPE) for correction of its records, unless the application is an application with an application data sheet (e.g., an 09/ series application), in which case the Office of Petitions will correct the Office computer records and print a new bibliographic data sheet. If the application is assigned, it will be forwarded by OIPE or the Office of Petitions to the Assignment Division for a change in the assignment record.

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

If the error is not detected until after the payment of the issue fee, because amendments are not permitted after the payment of the issue fee, either (A) the application must be withdrawn from issue under 37 CFR 1.313(c)(2) and a request to correct the spelling of the inventor's name submitted with a request for continued examination (RCE) under 37 CFR 1.114, or (B) a certificate of correction must be filed after the patent issues requesting correction of the spelling of the inventor's name.

Analysis

Applicant asserts that the error, the misspelling of the inventor's given name as Kiyoji, instead of Kyoji, is a substantive error. However, the MPEP differentiates between minor errors, and substantive errors. The analysis is whether the error is of such a nature that the meaning intended is obvious from the context. Here, the error asserted is the misspelling of the inventor's given name as Kiyoji, instead of Kyoji. Where the error is of such a nature that the meaning intended is obvious from the context, as stated above, "the Office may decline to issue a certificate and merely place the correspondence in the patented file, where it serves to call attention to the matter in case any question as to it subsequently arises. Such is the case, even where a correction is requested by the patentee or patentee's assignee." The MPEP further states that "[i]n order to expedite all proper requests, a Certificate of Correction should be requested only for errors of consequence. Instead of a request for a Certificate of Correction, letters making errors of record should be utilized whenever possible. Thus, where errors are of a minor typographical nature, or are readily apparent to one skilled in the art, a letter making the error(s) of record can be submitted in lieu of a request for a Certificate of Correction..

The error asserted in the present case, is that the inventor's given name incorrectly appears on the patent as Kiyoji, instead of Kyoji. Such an error is of a minor, typographical nature.

Further to this, the MPRP 605 states that a certificate of correction must be filed after the patent issues requesting correction of the spelling of the inventors name. The correction of the spelling of an inventors name as a result of a typographical error is a minor error, the remedy for which is a Certificate of Correction.

Regarding Petitioner's assertions, that there is a tendency for Certificate of Correction to become separated from printed copies of the patent, and that patents in electronic media may not always be accompanied by their corresponding certificate of Correction, Petitioner has not provided any documentary support for these (bald) assertions.

Conclusion

Applicant has failed to demonstrate that a Certificate of Correction is not the appropriate remedy to correct the spelling of the inventors name.

The application is being referred to the Certificate of Corrections Branch for consideration of the Request for Certificate of Correction filed July 14, 2008.

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

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

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MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of :
John H. Starkey :
Application No. 10/820,373 : DECISION GRANTING PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6009-4701 :

This is a decision on the petition, filed October 2, 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 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) 272-3218.

This matter is being referred to Technology Center AU 2856 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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JAN 11 2008

OFFICE OF PETITIONS

Ken Campbell
PO Box 551
Fair Oaks CA 95628

In re Application of	:	
Karen E. Brubaker	:	
Application No. 10/820,392	:	ON PETITION
Filed: April 6, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 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 3, 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). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

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

The application file is being referred to Technology Center AU 3781 for appropriate action on the concurrently filed RCE.

Liana Walsh
Petitions Examiner
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of
Zeldis et al.
Serial No.: 10/820,397
Filed: April 8, 2004
Attorney Docket No.: CELG-0422

: PETITION DECISION

This is a response to the petition under 37 CFR 1.59(b), filed February 13, 2008, to expunge information from the above identified application.

Petitioner requests that items 1-10 of the IDS, disclosed under seal, February 13, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The $200.00 petition fee set forth in 37 CFR 1.17(h) has been paid.

This is currently an examined application. Howver, the IDS has not been reviewed and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. However, the information cannot be expunged at this time.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

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APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Stylianos Panghe	:	
Application No. 10/820,401	:	DECISION ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. 7579	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2007, as required by the Notice of Allowance and Fee(s) Due mailed December 14, 2007. Accordingly, the application became abandoned on March 15, 2007. A Notice of Abandonment was mailed April 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 21,2007

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/820,423 Patent No.: 7244568 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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Gary Benzion/ 1637

SPE Art Unit

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MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland OR 97205

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OFFICE OF PETITIONS

In re Application of	:
Jordan and Schoonmaker	:
Application No. 10/820,431	: DECISION ACCORDING STATUS
Filed: April 7, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 4164-246	:
For: ELECTRONIC GAMING ACCOUNT SERVICE CENTER	:

This is in response to the petition under 37 CFR 1.47(a), filed Monday, January 24, 2005. Petitioner obtained a five-month extension of time to reply; therefore, petition is filed timely.

The petition is granted.

Petitioner has shown that Rena M. Schoonmaker, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Alan T. McCollom establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

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

This matter 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
James Gardner, et al. :
Application No. 10/820,440 :
Filed: April 5, 2004 :
Attorney Docket No. 021245-001410US :

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 4, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on November 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: HIMANSHU S. ARMIN
AMIN, TUROCY & CALVIN, LLP
NATIONAL CITY CENTER
24TH FLOOR
CLEVELAND, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of

Dejarlais, et al.

Application No. 10/820,466

Filed: March 31, 2004

Attorney Docket No. 067461-5118-US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 2, 2007.

The petition is **granted**.

This application was held abandoned October 14, 2006, after no reply was received to the restriction/election requirement mailed September 13, 2006. The notice set forth a shortened period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on October 14, 2006. A Notice of Abandonment was mailed April 12, 2007. The instant petition was filed on October 2, 2007. Petitioner maintains that the restriction/election requirement was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 1600, GAU 1631 for further processing that may include remailing the restriction/election requirement and resetting of the period for reply.

Questions 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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OFFICE OF PETITIONS

In re Application of

Aguinaldo, et al.

Application No. 10/820,467

Filed: March 30, 2004

Attorney Docket No. 067461-5104-US02

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 2, 2007.

The petition is **granted**.

This application was held abandoned December 16, 2006, after no reply was received to the non-final Office action mailed September 15, 2006. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 16, 2006. A Notice of Abandonment was mailed March 22, 2007. The instant petition was filed on October 2, 2007. Petitioner maintains that the restriction/election requirement was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 1600, GAU 1646 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions 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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Sonnenschein Nath & Rosenthal
P. O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
David S. Moskowitz :
Application No. 10/820,479 :
Filed: March 31, 2004 :
Attorney Docket No. :
60019190-1038 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed November 10, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed October 4, 2004. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned December 5, 2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the October 4, 2004 Notice is filed with the instant petition. Accordingly, the petition is granted.

Applicant files a three (3) month extension-of-time request with the instant petition; however, the maximum extendable period available to respond the Notice under 37 CFR 1.136 is five (5) months, or until May 4, 2005. After May 4, 2005, no extensions-of-time were available because the application became abandoned on December 5, 2004, the day after the shortened statutory reply period expired. Thereafter, a petition to revive the application is the appropriate course of action.

A refund of the extension of time fee has been scheduled via treasury check.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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TARA NEALEY
SONNENSCHEIN NATH AND ROSENTHAL, LLP
ONE METROPOLITAN SQUARE, 30TH FLOOR
ST. LOUIS, MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
David W. Moskowitz	:	
Application No. 10/820,479	:	DECISION ON PETITION
Filed: March 31, 2004	:	TO WITHDRAW
Attorney Docket No. 60019190-1038	:	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 14, 2006.

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

A review of the file record indicates that the power of attorney to Tara Nealey has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Blackwell, Sanders, Peper, Martin, LLP
720 Olive Street
Suite 2400
St. Louis, MO 63101

cc: David W. Moskowitz, MD, MA, FACP
c/o GenoMed, Inc.
9666 Olive Boulevard, Suite 310
St. Louis, MO 63132

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/820,479	03/31/2004	David W. Moskowitz	60019190-1038

CONFIRMATION NO. 7392

OC000000019789721

OC000000019789721

27128
BLACKWELL SANDERS PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

Date Mailed: 07/27/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/820,479	03/31/2004	David W. Moskowitz	60019190-1038

CONFIRMATION NO. 7392

OC000000019789670

OC000000019789670

Sonnenschein Nath & Rosenthal
P. O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

Date Mailed: 07/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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).

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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ABBOTT MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA, CA 92705

Mail Date: 04/21/2010

Applicant	: Zhi-Jian Yu	: DECISION ON REQUEST FOR
Patent Number	: 7578996	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,486	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1225** 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.

SEP 01 2004
PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Marina Shereshevsky	Group Art Unit:	1761
Serial No.:	10/820,488	Examiner:	N/A
Filed:	April 8, 2004		
For:	**"READY TO EAT FOOD FORMULATION CONTAINING YOGURT AND PUREED COOKED VEGETABLES AND PROCESS FOR MANUFACTURE THEREOF"**		
Atty. Docket No.:	0162-1		

Bedminster, NJ 07921
August 30, 2004

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. § 708.02 (VIII)

Applicant hereby petitions to make special this new application. The application has not yet been examined by the United States Patent and Trademark Office (the "Office").

Applicant submits that all of the claims in this case are directed to a single invention. As a prerequisite to the grant of special status, if the Office determines that all claims presented are not obviously directed to a single invention, then applicant will make an election, without traverse.

A pre-examination search of the subject matter encompassed by the above-identified application has been made by a professional searcher. The pre-examination search was conducted in the United States Patent and Trademark Office. The field of search covered Class 426, subclasses 34, 43, 52, 583, and 634. Additionally, a computer database search was conducted on the USPTO system EAST and the European Patent Office system ESP@CENET. Examiner Helen Pratt in Class 426 (Art Unit 1761) was consulted in confirming the field of search. The references developed by the pre-examination search were cited in applicant's Information Disclosure Statement dated June 22, 2004. A statement pertaining to the pre-examination search listing the

01 FC:1460 130.00 OP
IBDELR1 00000013 10820488 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUN 28 2005

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CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

Mail Date: 06/15/2010

Applicant	: Devendra Y. Raut	: DECISION ON REQUEST FOR
Patent Number	: 7633961	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/820,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1621** 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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MOTOROLA INC
1303 E ALGONQUIN RD
IL01/3RD
SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of :
Harris, et al. :
Application No. 10/820,520 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. CE05075N :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 4, 2006.

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

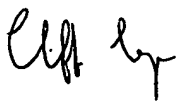
The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 30, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on October 1, 2005. A Notice of Abandonment was mailed on March 9, 2006.

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

Receipt of the $1,500 petition fee is acknowledged.

The matter is being forwarded to Group Art Unit 2684 for consideration of the amendment filed April 4, 2006.

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



Cliff Congo
Petitions Attorney
Office of Petitions

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DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #E
NEWPORT BEACH, CA 92661

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OFFICE OF PETITIONS

In re Application of :
Andrew Valdez :
Application No. 10/820,526 : ON PETITION
Filed: April 7, 2004 :
Attorney Docket No. None :

This is a decision on the petition, filed October 6, 2005, 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 the non-final Office action mailed January 10, 2005. A Notice of Abandonment was mailed on July 19, 2005. In response, the present was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

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 forwarded to Technology Center AU 3722 for consideration of the amendment filed October 6, 2005.

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

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
David Sawyer
Application No. 10/820,528
Filed: April 7, 2004
Attorney Docket No. 07844-0648001 / P601

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed July 24, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred twelve (612) days to six hundred thirty-four (634) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred thirty-four **(634)** days. A copy of the updated PTA calculation, showing the correct determination, is enclosed.

On May 15, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is six hundred twelve (612) days. On July 24, 2009, applicants timely[1] submitted the instant 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 six hundred thirty-four (634) days. Applicants dispute the reduction of twenty-two (22) days attributed to applicant for failing to respond within three months to the non-Final Office Action mailed May 12, 2008.

The Office initially determined a patent term adjustment of six hundred twelve (612) days based on an adjustment for PTO delay of six hundred sixty-six (666) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delay of fifty-four (54) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 666 days has been reviewed and found to be correct. The reduction of twenty-two (22) days of applicant delay is at issue.

Applicants dispute the reduction of twenty-two (22) days attributed to applicant for failing to respond within three months to the non-Final Office Action mailed May 12, 2008.

---

[1] PALM records indicate that the Issue Fee was received in the Office on August 12, 2009.

Applicants argue that the non-Final Office Action mailed May 12, 2008 was re-mailed June 3, 2008 and the period for reply was restarted.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that applicants are correct. Any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As applicant's response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of 37 CFR § 1.704(b).

In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the non-Final Office Action by 22 days. Accordingly, the period of reduction of 22 days is being removed.

The correct patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred thirty-four days.

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

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

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

/Kery A. Fries/

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

Enclosure: Copy of Revised PALM Screen

Day : Monday
Date: 11/9/2009

PALM INTRANET

Time: 12:10:58

PTA Calculations for Application: 10/820528			
Application Filing Date:	04/07/2004	PTO Delay (PTO):	666
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	54
Post-Issue Petitions:	0	Total PTA (days):	634
PTO Delay Adjustment:	22		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	11/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	22		
70	05/15/2009	MAIL NOTICE OF ALLOWANCE			
69	05/12/2009	ISSUE REVISION COMPLETED			
68	05/12/2009	DOCUMENT VERIFICATION			
67	05/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
66	05/11/2009	NOTICE OF ALLOWABILITY			
65	02/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	02/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	02/26/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	03/13/2009	EMAIL NOTIFICATION			
61	03/13/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	02/25/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	02/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	03/04/2009	DATE FORWARDED TO EXAMINER			
57	02/26/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
56	03/04/2009	DATE FORWARDED TO EXAMINER			
55	02/26/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
54	03/04/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

53	02/26/2009	FILED			
52	02/26/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	02/26/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	11/26/2008	ELECTRONIC REVIEW			
49	11/26/2008	EMAIL NOTIFICATION			
48	11/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
47	11/20/2008	FINAL REJECTION			
46	09/19/2008	DATE FORWARDED TO EXAMINER			
45	09/03/2008	RESPONSE AFTER NON-FINAL ACTION		22	41
44	05/12/2008	MISCELLANEOUS INCOMING LETTER			
43	06/03/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
42	05/29/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
41	05/12/2008	MAIL NON-FINAL REJECTION			
40	05/09/2008	NON-FINAL REJECTION			
39	04/11/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
38	04/09/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	04/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	03/07/2008	DATE FORWARDED TO EXAMINER			
35	02/11/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	03/07/2008	DATE FORWARDED TO EXAMINER			
33	02/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	24
32	03/07/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	02/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	02/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	01/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
28	01/08/2008	MAIL ADVISORY ACTION (PTOL - 303)			
27	01/07/2008	ADVISORY ACTION (PTOL-303)			
26	12/20/2007	DATE FORWARDED TO EXAMINER			
25	12/07/2007	AMENDMENT AFTER FINAL REJECTION			
24	10/11/2007	MAIL FINAL REJECTION (PTOL - 326)			

23	10/09/2007	FINAL REJECTION			
22	07/31/2007	MISCELLANEOUS INCOMING LETTER			
21	08/03/2007	DATE FORWARDED TO EXAMINER			
20	07/05/2007	RESPONSE AFTER NON-FINAL ACTION		1	17
19	07/18/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	05/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	04/04/2007	MAIL NON-FINAL REJECTION	666		-1
16	03/30/2007	NON-FINAL REJECTION			
15	08/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	01/25/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	01/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
12	07/08/2004	NEW OR ADDITIONAL DRAWING FILED			
11	04/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	04/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
9.7	08/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	06/22/2004	APPLICATION RETURN FROM OIPE			
7	06/22/2004	APPLICATION RETURN TO OIPE			
6	06/21/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/22/2004	APPLICATION IS NOW COMPLETE			
4	05/11/2004	CLEARED BY OIPE CSR			
3	05/11/2004	CASE CLASSIFIED BY OIPE			
2	04/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/07/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Mail Date: 04/20/2010

Applicant	: David Sawyer	: DECISION ON REQUEST FOR
Patent Number	: 7634742	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **968** 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 94111-3834

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Gilbert et al. :
Application No. 10/820,536 : ON PETITION
Filed: April 7, 2004 :
Attorney Docket No. 019633-000127US :

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3206.

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

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Robin D. Katzer	: DECISION ON REQUEST FOR
Patent Number	: 7624376	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 2600

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of :
David H. Tannenbaum :
Application No. 10/820,554 : DECISION ON PETITION
Filed: April 8, 2004 : TO MAKE SPECIAL
For: **TELEVISION VIEWER SELECTION OF PROGRAMS TO BE SUBSEQUENTLY DELIVERED** :

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed February 1, 2005.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement signed by the inventor, stating that they are over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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J. Michael Boggs
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101-2400

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of
Byrd and Poulos
Application No.: 10/820,558
Filed: April 8, 2004
Attorney Docket No: 41872-298797
For: FOOTWEAR WITH DISPLAY ELEMENT

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 12, 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 April 8, 2004, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 22, 2004, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On November 12, 2004, a petition under 37 CFR 1.47 was filed along with several exhibits.

Petitioner has shown that despite diligent effort by the 37 CFR 1.47(a) applicant, inventor Poulos is unable to be located join 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The assignment and certificate under 37 CFR 3.73 filed November 12, 2004, are noted and made of record.

This application will be directed to the Assignment Division for recordation of the assignment and then 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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4350 LA JOLLA VILLAGE DRIVE #700
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SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of	:	
O'Farrell et al.	:	DECISION ON PETITION
Application No. 10/820,567	:	TO WITHDRAW
Filed: April 7, 2004	:	FROM RECORD
Attorney Docket No. 026276-000210US	:	

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 10, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that on May 9, 2006 the power of attorney to Heller Ehrman LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Robert O'Farrell, et al. :
Application No. 10/820,567 : DECISION ON PETITION
Filed: April 7, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 026276-000210US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 5, 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 April M. Wise at (571) 272-1642. 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 2169 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.

/dab/
David Bucci
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
10/820,567	04/07/2004	2169	550	026276-000210US	17	3

CONFIRMATION NO. 8559

CORRECTED FILING RECEIPT

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

Date Mailed: 09/21/2009

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

Applicant(s)

Robert O'Farrell, Woodenville, WA;
Mark D. Kirstein, Incline Village, NV;

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/461,588 04/07/2003
and is a CIP of 10/764,122 01/23/2004 PAT 7,366,460
and is a CIP of 10/746,229 12/23/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/820,567**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System and method for context sensitive mobile data and software update

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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MAR 25 2010

OFFICE OF PETITIONS

In re Application of	:	
O'Farrell et al.	:	DECISION ON PETITION
Application No. 10/820,567	:	TO WITHDRAW
Filed: April 7, 2004	:	FROM RECORD
Attorney Docket No. 02676-000210US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2010.

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

A review of the file record indicates that on March 10, 2010 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Barry G Magidoff, Esq., Paul J. Sutton, Esq.
Sutton Magidoff LLP
909 Third Avenue - 27 FL
New York NY 10022

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TECHNOLOGY CENTER 2600

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of:
Boris MAYER, et al.
Application Serial No.: 10/820,586
Filed: April 8, 2004
For: **ELECTRONIC DEVICE FOR PACKET BOXES AND RELATED OPERATING METHOD**

DECISION
ON PETITION

This is a decision on the petition requesting withdrawal of the final action, filed August 25, 2006, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed June 26, 2006 final and requests withdrawal of finality of the Office action.

PERTINENT BACKGROUND INFORMATION

A non-final Office action was mailed on September 20, 2005 rejecting all claims 1-11 under 35 USC 103 as being unpatentable over Porter (US Patent No. 5,774,053) in view of Kakuta (US Patent No. 6,456,900).

Applicant filed an amendment on December 27, 2005, wherein all original claims 1-11 were canceled and new claims 12-20 were added.

On March 9, 2006, the Examiner made a Final Office action with a new grounds of rejection wherein all new claims 12-20 were rejected under 35 USC 103 as being unpatentable over Porter (US Patent No. 5,774,053) in view of Booth et al. (US Patent No. 6,879,243).

On May 15, 2006, applicant filed a response, including an after final amendment amending independent claims 12 and 13; and including a certified English translation of the German priority document.

On June 26, 2006, the examiner rendered a new final Office action citing a new grounds of rejection rejecting all of claims 12-20 as being rejected under 35 USC 103 over Porter (US Patent No. 5,774,053) in view of Frisch (US Patent No. 5,212,644) and setting forth that the new grounds of rejection were necessitated by amendment. The new final Office action dated June 26, 2006 was also mailed with an introductory paragraph (under "Response to Arguments") that the previous rejection was withdrawn.

An Interview Summary was mailed August 21, 2006 wherein the examiner's supervisor informed the attorney of record that the Final action mailed in June 26, 2006 was a replacement Final since the March 9, 2006 Final action was vacated.

On August 25, 2006, a petition to withdraw the holding of finality of the final rejection dated June 26, 2006 was filed. Petitioner argues that the new final Office action mailed June 26, 2006 was improper and premature. Petitioner contends that the new final rejection was necessitated by the filing of the foreign priority document, not as the result of a new amendment.

On October 31, 2006, applicant filed a Request for Continued Examination (RCE) and an Information Disclosure Statement. In the Remarks accompanying the RCE, applicant requests that any further action be held until resolution of the instant petition.

DECISION

It is noted that at the beginning of the June 26, 2006 Office action, the previous rejection was withdrawn. Although the examiner of record failed to clearly state that he was withdrawing the entire March 9, 2006 action, it can be understood from the record that was the examiner's intent. Furthermore, the examiner's supervisor clarified in an Interview Summary dated August 21, 2006 that the earlier action was vacated and that the new Final action mailed June 26, 2006 served as its replacement. Because the March 9, 2006 Office action was vacated, the new final Office action mailed June 26, 2006 was responsive to the December 27, 2005 amendment, which was reconsidered together with the certified translation of the foreign priority document filed May 15, 2006.

Regardless, the issue became moot with applicant's filing of an RCE on October 31, 2006. Applicant's request that 'any further action be held until resolution of the instant petition' is tantamount to the filing of a "conditional RCE", which is not permitted. In accordance with MPEP 706.07(h), a "conditional" RCE is treated as an RCE. Accordingly, the RCE filed October 31, 2006 has been processed.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

The application is being forwarded to the examiner for new and appropriate action responsive to the RCE filed October 31, 2006.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

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Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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NOV 0 8 2006

OFFICE OF PETITIONS

Applicant: Winters
Appl. No.: 10/820,592
Filing Date: April 8, 2004
Title: OLED MICROCAVITY SUBPIXELS AND COLOR FILTER ELEMENTS
Attorney Docket No.: 87448RLO
Pub. No.: US 2005/0225237 A1
Pub. Date: October 13, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 20, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 5 of the publication, as part number 21 was mislabeled as part number 19.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.** [1]

The request for corrected publication received on January 20, 2006, was not timely filed under 37 CFR 1.221(b).

The typographical error noted by requestor wherein the part number for "subpixel 21" was misprinted as "subpixel 19" in the parts list is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical, which does not affect the

[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).

understanding of the application, as the parts are also labeled in the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 571-273-8300

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

JUN 13 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Joachim Kramer	:
Serial No.: 10/820,607	: SUSPENSION OF ACTION
Filed: April 8, 2004	:
Attorney Docket No.: P06300US02-PHI 1483	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an examined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, the issues ultimately developed and maintained may not be the same as those at the Board of Appeals. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

John le Guyader Director 1600

FOR:

George Elliott
Director, Technology Center 1600

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APR 18 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Guenole Boulch	:
Serial No.: 10/820,609	: SUSPENSION OF ACTION
Filed: April 8, 2004	:
Attorney Docket No.: P06299US02-1475	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

In re Application of Gardner et al. :
Application No. 10/820,610 : Decision on Petition
Filing Date: April 8, 2004 :
Attorney Docket No. P06278US01-PHI1318C :

This is a decision on the petition under 37 CFR 1.182, filed May 1, 2007, which requests that one of the two terminal disclaimers filed on February 6, 2007, be withdrawn.

The petition is **granted.**

On February 6, 2007, petitioner filed two terminal disclaimers in response to a non-final Office action.

One terminal disclaimer referenced Patent No. 6,809,240. The other terminal disclaimer referenced Patent No. 6,232,535. Petitioner requests the terminal disclaimer referencing Patent No. 6,232,535, be withdrawn.

As of the current date, the examiner has not mailed out any Office action in response to the February 6, 2007 papers, and the examiner has failed to make any indication in the file wrapper that the Terminal Disclaimers are accepted and entered.

Based on a review of all the facts, the terminal disclaimer referencing Patent No. 6,232,535, will be withdrawn.

The papers filed with the petition instructed the Office to charge $130 to petitioner's deposit account for the fee. As a result, $130 was charged to the account. However, the fee required for a petition under 37 CFR 1.182 is $400. Therefore, an additional $270 has been charged to the deposit account.

Technology Center Art Unit 1638 will be informed of the instant decision and the examiner will consider the merits of the papers filed February 6, 2007, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND CA 94623-1305

In re Application of :
Alan F. Savicki :
Application No. 10/820,616 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. 792.408

This is a decision on the petition under 37 CFR 1.183 filed March 4, 2008. This is also a decision on the petition under 37 CFR 1.137(b) filed March 4, 2008.

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

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

The record reflects that a final Office action was mailed on June 14, 2007, allowing a shortened statutory period for reply of three months from its mailing date. On October 15, 2007, an amendment after final Office action was filed. An Advisory Action was issued on January 17, 2008, indicating that the response of October 15, 2007, did not place the application in condition for allowance. A Notice of Abandonment was mailed on February 8, 2008.

Petitioner maintains that the applicable rules should be suspended to allow the examiner to update the search of prior art considering the amendments made by the applicant in the papers filed October 15, 2007.

TREATEMENT UNDER 37 CFR 1.183

It is noted that the period for reply to the final Office action is a shortened statutory period of three months that is extendable an additional three months. It is further noted that 37 CFR 1.183 allows for waiver or suspension of the rules that are not also a requirement of the statute. The request made by the instant petition is akin to extending the period for reply to the final Office action beyond the maximum statutory period of six months so that further search can be conducted and additional amendments be filed, if necessary. A review of the application file reveals that the by the Advisory Action mailed January 17, 2008, the examiner determined that the response of October 15, 2007, did not place the application in condition for allowance. A proper response was not filed within the allowable period and the Office does not have the authority to suspend the rules and extend the period for reply to the final Office action. The petition under 37 CFR 1.183 is dismissed as accordingly.

Further, while the Office encourages the examiner to issue the Advisory Action promptly, circumstances may arise that prevent the most expeditious processing of the amendment. The failure of the examiner to meet the ideal processing goal does not excuse the applicant from taking other measures to avoid the abandonment of the application should the examiner determine that the amendment filed does not place the application in condition for allowance. Certainly, applicant could have filed a Notice of Appeal or Request for Continued Examination with the amendment after final with the instruction that the Notice of

Appeal or Request for Continued Examination should only be processed in the event that the amendment after final is not entered. Applicants are charged with a filing a proper and timely response to all Office actions issued. If a reply filed the applicant is determined to be improper, such does not toll any time period running against the application. The holding of abandonment was properly imposed because a proper response to the final Office action was not filed within the maximum statutory period for reply.

TREATMENT UNDER 37 CFR 1.137(b)

The petition fee of $1,620.00 will be charged to deposit account 03-2270.

The Request for Continued Examination filed March 4, 2008, is noted.

The application file is being directed to Technology Center GAU 3781 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 10/820,618	:	DECISION DISMISSING
Filed: 7 April, 2004	:	PETITION
Atty Docket No. UCAL-217CON	:	

This is a decision in reference to the paper filed on 12 July, 2004, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 7 April, 2004, with Figure 6 described in the specification as a part of the original disclosure.

On 7 April, 2004, the application was filed.

On 23 June, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 7 April, 2004, but that Figure 6 described in the specification (description and claims) appeared to have been omitted from the application.

In response, on 12 July, 2004, the present petition was filed. Petitioners concede that Figure 6 was inadvertently omitted from the application, but states that the above-identified application is a continuation of Application No. 10/033,526, and incorporated the disclosure of the prior application by reference.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the

appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, however, petitioners neither assert that the missing page of specification was deposited on 7 April, 2004, nor request the 12 July, 2004 (the date the drawing was supplied), filing date.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 6 of the specification is not new matter if it was a part of the disclosure of the prior application.

Petitioner should file Figure 6 as a preliminary amendment. If Figure 6 is filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of Figure 6 of the drawings filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, a petition fee of $130.00 will be charged to counsel's deposit account, No. 50-0815, as authorized in the petition.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 7 April, 2004, using only the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

JUL 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: KASAKO, et al.
Application No. 10/820,629
Filed: April 08, 2004
For: REMOTE STORAGE DISK CONTROL DEVICE WITH FUNCTION TO TRANSFER COMMANDS TO REMOTE STORAGE DEVICES

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

This is a response to the petition filed May 02, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

7/6/05

RP

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

Mail Date: 04/21/2010

Applicant	: Thanthrimudalige D.J. Dunstan	: DECISION ON REQUEST FOR
Patent Number	: 7582380	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,638	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
William H. Hohenstein et al :
Application No. 10/820,641 : DECISION GRANTING PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 4015.3002 US :

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

The petition is **GRANTED**.

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

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Hohenstein et al.	:	REQUEST FOR
Patent Number: 7,281,845	:	RECONSIDERATION OF
Issue Date: 10/16/2007	:	PATENT TERM ADJUSTMENT
Application No. 10/820641	:	and
Filing or 371(c) Date: 04/08/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 4015.3002 US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 25, 2007, and the second request, filed July 16, 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 three hundred sixty-two (362) 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 three hundred sixty-two (362) 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 Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred sixty-two **(362)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,281,645 B2

DATED : **October 16, 2007**

INVENTOR(S) : Hohenstein 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 213 days.

Delete the phrase "by 213 days" and insert – by 362 days--

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Eric G. Lovett	: DECISION ON REQUEST FOR
Patent Number	: 7570997	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,642	: OF WYETH
Filed	: 04/08/2004	:
		:

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.

WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 16 2010

In re Patent No. 7,590,685	:	DECISION ON REQUEST
Palmeri et al.	:	FOR
Issue Date: Sep. 15, 2009	:	RECONSIDERATION OF
Application No. 10/820,650	:	PATENT TERM ADJUSTMENT
Filed: Apr. 7, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
ODVFP006	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 10, 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 sixty-seven (1067) 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 four hundred twenty-seven (1427) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 789 days, not 102 days. This period begins 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), April 8, 2007, and ends on June 4, 2009, the day before the date the RCE was filed, or 789 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Further, 327 (304 + 23) days of the "A" period overlap with the "B" period.[1] Thus, the additional non-overlapping period is 462 (789 - 327) days.

[1] The 304 day period from April 8, 2007 to the mailing of the first Office action on February 5, 2008, and the 23 day period from October 6, 2008, the day after the date four months after mailing of a reply to an Office action, to October 28, 2008, the date an Office action was mailed in response to the reply, overlap with the "B" period.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred twenty-seven (1427)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,590,685 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Palmeri 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 965 days.

Delete the phrase "by 965 days" and insert – by 1427 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Ron Palmeri	: DECISION ON REQUEST FOR
Patent Number	: 7590685	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1889** 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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WOODARD EMHARDT MORIARTY MCNETT & HENRY
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Boris Volfson et al :
Application No. 10/820,669 : DECISION ON PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 34120-3 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 1, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

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

The instant pending nonprovisional application was filed on April 8, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/490,163, which was filed on July 24, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v.

Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

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

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

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

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

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[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Boris Volfson et al :
Application No. 10/820,669 : DECISION ON PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 34120-3 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 20, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/490,163, filed July 24, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been 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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the above-noted, prior-filed

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3724 for appropriate action on the amendment submitted October 31, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 1 8 2005

SHERIDAN ROSS PC
1560 Broadway
Suite 1200
Denver, CO 80202

In re application of
Trudy Bitter Rosser et al.
Application No. 10/820,676
Filed: April 07, 2004
For: SUPPORT SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on April 07, 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 for Mr. John G. Rosser 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
(571) 272-6619

RAR/pav: 10/14/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-20-07 Paper No.: ____

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction on Patent No.: 7229056

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:

Typographical error is approved to be Changed

AMY J. STERLING
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600

SPE — 3632 Art Unit

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

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OCT 21 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Ziv Haparnas	:	
Application No. 10/820,682	:	DECISION ON PETITION
Filed: April 8, 2004	:	TO WITHDRAW
Attorney Docket No. 1005-11-01 USP	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

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

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

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

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

There is an outstanding Office action mailed March 12, 2009 that requires a reply by the applicant.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL K. BOYER
ORSCHELN MANAGEMENT CO
2000 US HWY 63 SOUTH
MOBERLY MO 65270

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Robert L. Heimann et al. :
Application No. 10/820,692 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. EL021RH-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2006, 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 December 29, 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) was obtained. Accordingly, the application became abandoned on March 30, 2006. The Notice of Abandonment was mailed on July 26, 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 RCE; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center 1775 for appropriate action on the concurrently filed RCE and Amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/09/06

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/820744** Patent No.: **6966750**

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

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

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

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Ed Tolan — **SPE**

3745 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/9/09 Paper No.: ———

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/820786 Patent No.: 7197433 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE 2863 Art Unit

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,364,744	:	ON PETITIONS
Hovanessian et al.	:	under 37 CFR 1.183
Issue Date: April 29, 2008	:	and
Application No. 10/820,816	:	ON REQUEST FOR RECONSIDERATION
Filed: April 9, 2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
10197.0002	:	
	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Determination of Patent Term Adjustment - Post Grant, both filed on October 24, 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 § 1.181(f).

BACKGROUND

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,744, with a revised patent term adjustment of 72 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 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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 29, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 24, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by June 29, 2008, the date two months from the date this patent issued, April 29, 2008. Rather, on October 24, 2008, nearly one month 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, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 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

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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 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

"the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 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 1.82 and 1.83 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 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 24, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to three hundred ninety-nine (399) days.

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,744 with a revised patent term adjustment of 72 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on October 24, 2008.

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 fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

/Kery Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 19928
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OFFICE OF PETITIONS

In re Application of :
Shimizu et al. :
Application No. 10/820,831 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 104205.02 :

This is a decision on the "Petition to Withdraw Holding of Abandonment – Notice of Allowance Not Received," filed April 7, 2006.

On October 14, 2004, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on January 15, 2005. A Notice of Abandonment was mailed on February 27, 2006.

In the petition, applicant asserted that the practitioner did not receive the Notice of Allowance. Specifically, the practitioner asserted that based on a review of the information contained in the PAIR Database for this application, the Notice of Allowance was returned to the USPTO as undeliverable on October 22, 2004. In support of this assertion, the practitioner submitted a copy of the computerized docket record where the non-received Notice of Allowance would have been entered had it been received and docketed, as well as a copy of the information contained in the PAIR Database for this application showing the Notice of Allowance was returned as undeliverable on October 22, 2004. The practitioner stated that he reviewed the file jacket for this application, which confirmed that he did not receive the Notice of Allowance. Furthermore, the practitioner noted that the correct correspondence address was indicated on the Notice of Allowance.

A review of the record indicates that the USPTO mailed the Notice of Allowance to the correct correspondence address; however, it was inexplicably returned to the USPTO. For this reason, the practitioner did not receive the Notice of Allowance of October 14, 2004.

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. As the practitioner did not receive the original Notice of Allowance of October 14, 2004, **Technology Center Art Unit 2861 shall re-mail the Notice of Allowance and restart the period for response.**

This matter is being referred to Technology Center Art Unit 2861 for further action consistent with this decision.

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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Application of :
Shimizu et al. :
Application No. 10/820,831 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 104205.02 :

This is a decision on the "Petition to Withdraw Holding of Abandonment – Notice of Allowance Not Received," filed April 7, 2006.

On October 14, 2004, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on January 15, 2005. A Notice of Abandonment was mailed on February 27, 2006.

In the petition, applicant asserted that the practitioner did not receive the Notice of Allowance. Specifically, the practitioner asserted that based on a review of the information contained in the PAIR Database for this application, the Notice of Allowance was returned to the USPTO as undeliverable on October 22, 2004. In support of this assertion, the practitioner submitted a copy of the computerized docket record where the non-received Notice of Allowance would have been entered had it been received and docketed, as well as a copy of the information contained in the PAIR Database for this application showing the Notice of Allowance was returned as undeliverable on October 22, 2004. The practitioner stated that he reviewed the file jacket for this application, which confirmed that he did not receive the Notice of Allowance. Furthermore, the practitioner noted that the correct correspondence address was indicated on the Notice of Allowance.

A review of the record indicates that the USPTO mailed the Notice of Allowance to the correct correspondence address; however, it was inexplicably returned to the USPTO. For this reason, the practitioner did not receive the Notice of Allowance of October 14, 2004.

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. As the practitioner did not receive the original Notice of Allowance of October 14, 2004, **Technology Center Art Unit 2861 shall re-mail the Notice of Allowance and restart the period for response.**

This matter is being referred to Technology Center Art Unit 2861 for further action consistent with this decision.

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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Kwan-Hee Lee	:	
Application No. 10/820,845	:	DECISION GRANTING PETITION
Filed: April 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1514.1037	:	

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 28, 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 2879 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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Date Mailed: September 10, 2009
Patent No. :7,486,016 B2
Ser. No. :10/820845
Issued : February 3, 2009
Inventor(s) : Kwan-Hee Lee
Title : ORGANIC ELECTROLUMINESCENT DISPLAY DEVICE

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 in this matter is hereby denied.

A certificate of correction will issue for the remaining error noted in your request.

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Stein, McEwen & Bui, LLP
1400 Eye St., NW, Ste. 300,
Washington, DC 20005

MD/mt

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1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,486,016	:	
Issue Date: February 3, 2009	:	
Application No. 10/820,845	:	ON PETITION
Filed: April 9, 2004	:	
Attorney Docket No. 0091.1037	:	

This is a decision on the petition filed November 22, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Terri Johnson
Petitions Examiner
Office of Petitions

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

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Technology Center 2100

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

In re Application of: IDEI, et al.
Application No. 10/820,858
Filed: April 9, 2004
For: COMPUTER SYSTEM FOR RECOVERING DATA BASED ON PRIORITY OF THE DATA

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

This is a response to the petition filed January 26, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed January 26, 2005 fails to adequately meet requirement (e) of the criteria set forth above.

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that independent claims 9 and 11 differ in scope from the discussion presented in the petition with respect to independent claim 1, specifically regarding the process of recovering data by the second site when the first site is stopped, and grouping on the basis of priorities.

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. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

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

3/17/05

SDL: 03/17/05

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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Technology Center 2100

In re Application of: Idei, et al.
Application No. 10/820,858
Filed: April 9, 2004
For: COMPUTER SYSTEM FOR RECOVERING DATA BASED ON PRIORITY OF THE DATA

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 April 6, 2005 (Supplemented June 16, 2005) on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on January 26, 2005, and dismissed on March 21, 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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JUN 28 2005

KILPATRICK STOCKTON LLP
607 14th Street, N.W.
Washington, DC 20005

In re application of : **DECISION ON PETITION**
Daniel Breen et al. : **TO MAKE SPECIAL**
Application No. 10/820,876 : **(ACCELERATED**
Filed: April 09, 2004 : **EXAMINATION)**
For: SYSTEM AND METHOD FOR INTEGRATING A CONVERTIBLE SECURITY WITH A CALL SPREAD

This is in response to the petition filed on February 01, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

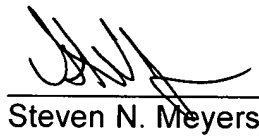
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to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

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

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

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

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



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

SNM/pav: 06/23/05

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ECOLAB INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN, MN 55121

Mail Date: 04/20/2010

Applicant	: Victor F. Man	: DECISION ON REQUEST FOR
Patent Number	: 7569532	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,891	: OF WYETH
Filed	: 04/08/2004	:
		:

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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KEVIN MARK KLUGHART
2516 LILLIAN MILLER PARKWAY
SUITE 115
DENTON TX 76210-7205

MAIL

AUG 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Vernice Doyle Taliaferro, et al. :
Application No. 10/820,901 : DECISION ON PETITION
Filed: April 8, 2004 : TO MAKE SPECIAL
For: **ANTI-ABDUCTION SYSTEM AND METHOD** :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed April 26, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Mr. Taliaferro's birth certificate evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

With respect to the additional grounds set forth in the petition in order to seek to make the subject application special, they are considered moot in view of the above decision

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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Lawrence R. Oremland, P.C.
Suite C-214
5055 East Broadway Blvd.
Tucson, AZ 85711

Mail Date: 04/21/2010

Applicant	: Andrew J. Griffis	: DECISION ON REQUEST FOR
Patent Number	: 7617167	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **795** 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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RUSSO & DUCKWORTH , LLP
9090 IRVINE CENTER DRIVE , SECOND FLOOR
IRVINE, CA 92618

Mail Date: 04/21/2010

Applicant	: Andrew S. Holmes	: DECISION ON REQUEST FOR
Patent Number	: 7620157	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BUCHANAN INTELLECTUAL PROPERTY OFFICE LLC
P.O. BOX 700
PERRYSBURG, OH 43552-0700

Mail Date: 04/21/2010

Applicant	: Brian C. Case	: DECISION ON REQUEST FOR
Patent Number	: 7670366	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,918	: OF WYETH
Filed	: 04/08/2004	:
		:

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

Mail Date: 04/21/2010

Applicant	: Philip F. Williams III	: DECISION ON REQUEST FOR
Patent Number	: 7621919	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/820,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **89** 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

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

OCT 11 2005

Ronnie M. Long, Sr.
538 Misty Ridge Lane
Ringgld, GA 30736

In re application of : **DECISION ON PETITION**
Ronnie M. Long, Sr. : **TO MAKE SPECIAL**
Application No. 10/820,938 : **(MANUFACTURE)**
Filed: August 17, 2004
For: ERGONOMIC BAY UNLOADING
PRODUCT STACKER (OR TEBUPS)

This is a decision on the petition under 37 C.F.R §1.102 filed April 9, 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 MPEP 708.02, item I: Prospective Manufacture.

The petition is **DISMISSED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 9, 2004 does not meet conditions 2(A)-2(D). The petition fails to set forth the requirements listed above in 2(A), 2(B), 2(C) and 2(D).

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. Petitioner should promptly submit such a renewed petition to the Commissioner of 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 2/4/05

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APR 2 4 2007

TECHNOLOGY CENTER 3600

Ronnie M. Long, Sr.
538 Misty Ridge Lane
Ringgold, GA 30736

In re application of : **DECISION ON PETITION**
Ronnie M. Long Sr. : **TO MAKE SPECIAL FOR**
Application No. 10/820,938 : **NEW APPLICATION**
Filed: August 17, 2004 : **UNDER 37 CFR 1.102**
For: ERGONOMIC BAY UNLOADING PRODUCT STACKER (OR TEBUPS) :

This is a decision on the petition filed on January 11, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on January 11, 2007 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

KJD/dew: 04/05/07

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Roen Branham
1252 East 38th Street
Brooklyn NY 11210

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of :
BRANHAM MCDANIEL :
Application No. 10/820,940 : ON PETITION
Filed: 04/09/2004 :
Title: METHOD AND SYSTEM FOR :
CONNECTING PUBLISHERS WITH :
SUBSCRIBERS THROUGH AN :
INTERMEDIATE SERVER AND A USER :
INSTALLED APPLICATION :

This is in response to the "Petition To Withdraw Holding of Abandonment," filed December 10, 2007.

This application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed October 26, 2006, which set a three-month shortened statutory period for reply. Extensions of this time period were available under 37 CFR 1.136(a). Petitioner did not submit a timely request for an extension of time for response. Accordingly, the application became abandoned on January 27, 2007. On July 31, 2007, the Office mailed A Notice of Abandonment, stating that the application became abandoned because applicant failed to file a timely and proper reply to the non-final Office action. The Notice indicated that the reply received on April 24, 2007, comprising of proposed amendments, was considered a unofficial/proposed response. Furthermore, the Notice indicated that applicant's response of April 30, 2007, was received after the expiration of the period for reply.

In the present petition, petitioner asserts that he filed a timely reply to the outstanding Office action, accompanied by a request for a three-month extension of time and fee, in the manner indicated by the examiner.

Initially, the Office notes that the present petition contains only the typed name of joint inventor, Branham. However, the petition lacks the signatures of both inventors, Branham and McDaniel, in compliance with 37 CFR 1.4(d) and 1.33(b). The Office notes that each piece of correspondence filed in an application, patent file or other proceeding in the USPTO, which requires a person's signature, must bear one of three types of signatures: (A) handwritten signature; (B) "S-signature;" or (C) Office Electronic Filing System (EFS) character coded signature. See 37 CFR 1.4(d).

Additionally, 37 CFR 1.33(b) states, in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (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.

The Office records do not indicate that applicants, Branham and McDaniel, filed a power of attorney in the present application or assigned their interests. Therefore, all of the applicants must sign a petition in a joint application where the applicants have not given power of attorney to a registered attorney or agent. There is no indication that McDaniel gave power of attorney to Branham to prosecute the application on his behalf.

As a petition under 37 CFR 1.181 requires the signatures of both Branham and McDaniel, the Office cannot accept the petition because petitioner failed to comply with the requirements of 37 CFR 1.4(d) and 1.33(b). Consequently, the present petition is dismissed and will not be addressed on the merits until petitioner files a petition signed by both Branham and McDaniel.

The Office recognizes that petitioner is acting in a *pro se* capacity. Although the Office will not specifically address the merits of the petition, the Office does remind petitioner that a reply must be filed before the expiration of the period for response plus any extensions of the time period to avoid abandonment of the application, but in no situation may an applicant reply later than the six-month maximum time period set by statute.

For the reply and the request for an extension of time to be considered timely, the USPTO must have RECEIVED them on or before April 26, 2007, unless petitioner submitted the correspondence via Express Mail (37 CFR 1.10) or used a certificate of mailing or transmission (37 CFR 1.8). It does not appear that petitioner utilized the provisions of either 37 CFR 1.10 or 1.8 when mailing the reply and the extension of time request. As the Office received these documents on April 30, 2007, they were untimely.

A petitioner alleging that a paper was timely filed with the USPTO has the burden of proving the allegation by a preponderance of the evidence. Section 711.03(c)(I)(B) of the Manual for Patent Examining Procedure states:

> 37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the

correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the postcard receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. 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). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

As it appears that the present application is abandoned, petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a "renewed" petition under 37 CFR 1.181 to withdraw the holding of abandonment or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action;

(2) The petition fee as set forth in 37 CFR 1.17(m), (an additional **$770.00 for a small entity**);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The appropriate form for filing a petition to revive an unintentionally abandoned application accompanies this communication.

As previously stated, 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 $510.00 extension of time fee received on April 30, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary. The Office will refund the $510.00 fee by treasury check in due course.

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

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

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

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

Correspondence may also be submitted via the USPTO electronic filing system.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64 and Privacy Act Statement

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SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Eit Drent et al :
Application No. 10/820,958 : DECISION GRANTING PETITION
Filed: April 8, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TS-1302(US) :
JDA:KNL

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 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 September 29, 2005.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply to the non-final Office action of June 28, 2005, (2) the $1,500 petition fee, and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 28, 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 1625 for appropriate action in the normal course of business on the reply received February 2, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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HOUSTON, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:	
Eit **DRENT**, et al.	:	
Application No. 10/820,958	:	DECISION GRANTING PETITION
Filed: April 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TS-1302 (US) JDA:KNL	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 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 January 30, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1625 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.*

UNITED STATES 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

J. NICHOLAS GROSS, ATTORNEY AT LAW
726 DUBOCE AVE.
SAN FRANCISCO CA 94117

COPY MAILED

OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/820,961 : DECISION ON PETITION
Filed: April 7, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. Epogy 2004-5 :
Title: SINGLE CHIP MULTI-ANTENNA :
WIRELESS DATA PROCESSOR :

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The petition fee has been charged to Petitioner's Deposit Account.

Petitioner states that a copy of the application was sent to the inventor. The Office will assume that this copy was a complete copy. Secondly, Petitioner states that his firm mailed the application to the inventor. The Office will assume that he personally sent the package to the inventor, and makes this statement as one who has firsthand knowledge of the underlying event.

Furthermore, it is noted that Petitioner has not explicitly stated whether the inventor cannot be found or whether he refuses to cooperate. However, since a complete copy of the application was sent to the inventor, and since a search did not result in any alternate address, the Office will assume that Petitioner is asserting that the inventor refuses to cooperate. Petitioner must notify the Office if these interpretations are incorrect.

Petitioner has met requirements (1) – (5) above.

Regarding the sixth requirement above, Rule 47 applicant has not established sufficient proprietary interest in the subject matter to justify the filing of the application, in that the chain of title is not complete[2]. Petitioner has not established that the non-signing inventor assigned his rights to Epogy Communications, Inc, the first of three purported assignees.

First, the agreement states that during the course of his employment, the employee will assign all inventions which are: conceived, developed, or reduced to practice during the time of his employment with Epogy,[3] and are either: related to the business of the employer[4] or his anticipated research or development;[5] are developed with company equipment or on company time[6], or; resulted from any work performed by the employee for the employer[7].

Regarding the first element above, no proof has been submitted that the inventor was employed by Epogy at the time that the invention was conceived, developed, or reduced to practice.

Regarding the second and third elements above, no statement has been made to establish that the present invention falls within these parameters. The Office has no way of determining if this invention has anything to do with the business of the employer, or if the invention was made on company time.

Regarding the final element above, it has not been established that this invention arose from any work performed by the non-signing inventor or Epogy, since all that is known about either is that the inventor was employed as a Senior Member of Technical Staff, in the vaguely titled Technical Development and Design department.

---

2 See 37 C.F.R. §3.73(b).
3 Agreement, paragraph 8, page 2.
4 Agreement, paragraph 8, page 3.
5 Id.
6 Id.
7 Id.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[8]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, it is noted that to date, it does not appear that Petitioner has submitted either an oath or declaration. Petitioner will note that the filing of a petition under 37 C.F.R. §1.47(b) does not allow the applicant to escape the requirements of 37 C.F.R. §1.63

Rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. See also MPEP §409.03(b). Submission of an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 is required.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows

---

8 See MPEP §409.03(g).

9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

11 (703) 872-9306.

LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

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OCT 18 2004
BY: ME

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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OFFICE OF PETITIONS

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726 DUBOCE AVE.
SAN FRANCISCO CA 94117

In re Application of	:	
Shaolin Li	:	
Application No. 10/820,961	:	DECISION ON PETITION
Filed: April 7, 2004	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. Epogy 2004-5	:	
Title: SINGLE CHIP MULTI-ANTENNA WIRELESS DATA PROCESSOR	:	

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The petition fee has been charged to Petitioner's Deposit Account.

Petitioner states that a copy of the application was sent to the inventor. The Office will assume that this copy was a complete copy. Secondly, Petitioner states that his firm mailed the application to the inventor. The Office will assume that he personally sent the package to the inventor, and makes this statement as one who has firsthand knowledge of the underlying event.

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Petitioner has met requirements (1) – (5) above.

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Rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. See also MPEP §409.03(b). Submission of an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 is required.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows

8 See MPEP §409.03(g).

9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

11 (703) 872-9306.

LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

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

BERKELEY LAW & TECHNOLOGY GROUP
5250 NE ELAM YOUNG PARKWAY
SUITE 850
HILLSBORO OR 97124

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/820,961 :
Filed: April 7, 2004 :
Attorney Docket No. Epogy 2004-5 :
Title: SINGLE CHIP MULTI-ANTENNA WIRELESS DATA PROCESSOR :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

With this renewed petition, Petitioner has submitted a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) – (7) above. Petitioner has also submitted a one-month extension of time to make timely this response[2].

Regarding the eighth requirement above, it is noted that the declaration which Petitioner has submitted fails to comply with 37 C.F.R. §1.63 in that it fails to list the citizenship for the inventor.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should submit an acceptable oath or declaration.

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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The Change in Correspondence Address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

2 The petition for extension of time contains a certificate of mailing dated January 13, 2005.
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 850
HILLSBORO OR 97124

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OFFICE OF PETITIONS

In re Application of
Shaolin Li
Application No. 10/820,961
Filed: April 7, 2004
Attorney Docket No. Epogy 2004-5
Title: SINGLE CHIP MULTI-ANTENNA WIRELESS DATA PROCESSOR

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the second renewed petition under 37 CFR §1.47(b)[1], filed May 17, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

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(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

The renewed petition was submitted on January 18, 2005, and was dismissed via the mailing of a decision on March 18, 2005, for failure to submit an acceptable declaration.

With this second renewed petition, Petitioner has submitted a declaration which complies with 37 C.F.R. §1.63.

As such, Petitioner has met requirements (1) – (8) above. The petition under 37 C.F.R. §1.47(b) 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.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

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OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/820,962 :
Filed: April 7, 2004 :
Attorney Docket No. Epogy 2004-3 :
Title: SYSTEM AND METHOD FOR ACHIEVING TIMING COMPATIBILITY WITH MULTI-ANTENNA WIRELESS DATA PROTOCOLS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

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3 Agreement, paragraph 8, page 2.
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5 Id.
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Regarding the final element above, it has not been established that this invention arose from any work performed by the non-signing inventor or Epogy, since all that is known about either is that the inventor was employed as a Senior Member of Technical Staff, in the vaguely titled Technical Development and Design department.
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As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

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8 See MPEP §409.03(g).
9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202
11 (703) 872-9306.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

J. NICHOLAS GROSS, ATTORNEY AT LAW
726 DUBOCE AVE.
SAN FRANCISCO CA 94117

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/820,962 : DECISION ON RENEWED PETITION
Filed: April 7, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. 012.P3003 :
Title: METHOD OF SECURE :
COMMUNICATIONS IN A WIRELESS :
DISTRIBUTION SYSTEM :

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

With this renewed petition, Petitioner has submitted a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) – (8) above.

As such, the petition under 37 C.F.R. §1.47(b) 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.

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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SAN FRANCISCO CA 94117

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of
Shaolin Li
Application No. 10/820,962
Filed: April 7, 2004
Attorney Docket No. 012.P3003
Title: METHOD OF SECURE COMMUNICATIONS IN A WIRELESS DISTRIBUTION SYSTEM

CORRECTED DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

With this renewed petition, Petitioner has submitted a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) and (7) above.

On March 31, 2005, a decision was mailed which granted this petition. This decision was mailed in error, and is hereby **VACATED**.

It has since come to the attention of the undersigned that the declaration which Petitioner has submitted fails to comply with 37 C.F.R. §1.63 in that it fails to list the citizenship for the inventor.

As such, Petitioner has met requirements (1) – (7) above, but requirement (8) has not been met. As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should submit an acceptable oath or declaration.

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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The Change in Correspondence Address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Mail Stop Petition; Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202
4 (703) 872-9306.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

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COPY MAILED

MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of
Shaolin Li
Application No. 10/820,962
Filed: April 7, 2004
Attorney Docket No. 012.P3003
Title: METHOD OF SECURE COMMUNICATIONS IN A WIRELESS DISTRIBUTION SYSTEM

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the second renewed petition under 37 CFR §1.47(b)[1], filed May 17, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the

1 1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

The renewed petition was submitted on January 18, 2005, and was dismissed via the mailing of a decision on April 6, 2005, for failure to submit an acceptable declaration.

With this second renewed petition, Petitioner has submitted a declaration which complies with 37 C.F.R. §1.63.

As such, Petitioner has met requirements (1) – (8) above. The petition under 37 C.F.R. §1.47(b) 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 Change in Correspondence Address has been entered and made of record.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

J. NICHOLAS GROSS, ATTORNEY AT LAW
726 DUBOCE AVE.
SAN FRANCISCO CA 94117

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OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/820,963 : DECISION ON
Filed: April 7, 2004 : PETITION UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. Epogy 2004-4 :
Title: MONITORING SYSTEM USING :
MULTI-ANTENNA TRANSCEIVERS :

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The petition fee has been charged to Petitioner's Deposit Account.

Petitioner states that a copy of the application was sent to the inventor. The Office will assume that this copy was a complete copy. Secondly, Petitioner states that his firm mailed the application to the inventor. The Office will assume that he personally sent the package to the inventor, and makes this statement as one who has firsthand knowledge of the underlying event.

Furthermore, it is noted that Petitioner has not explicitly stated whether the inventor cannot be found or whether he refuses to cooperate. However, since a complete copy of the application was sent to the inventor, and since a search did not result in any alternate address, the Office will assume that Petitioner is asserting that the inventor refuses to cooperate. Petitioner must notify the Office if these interpretations are incorrect.

Petitioner has met requirements (1) – (5) above.

Regarding the sixth requirement above, Rule 47 applicant has not established sufficient proprietary interest in the subject matter to justify the filing of the application, in that the chain of title is not complete[2]. Petitioner has not established that the non-signing inventor assigned his rights to Epogy Communications, Inc, the first of three purported assignees.

First, the agreement states that during the course of his employment, the employee will assign all inventions which are: conceived, developed, or reduced to practice during the time of his employment with Epogy,[3] and are either: related to the business of the employer[4] or his anticipated research or development;[5] are developed with company equipment or on company time[6], or; resulted from any work performed by the employee for the employer[7].

Regarding the first element above, no proof has been submitted that the inventor was employed by Epogy at the time that the invention was conceived, developed, or reduced to practice.

Regarding the second and third elements above, no statement has been made to establish that the present invention falls within these parameters. The Office has no way of determining if this invention has anything to do with the business of the employer, or if the invention was made on company time.

Regarding the final element above, it has not been established that this invention arose from any work performed by the non-signing inventor or Epogy, since all that is known about either is that the inventor was employed as a Senior Member of Technical Staff, in the vaguely titled Technical Development and Design department.

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2 See 37 C.F.R. §3.73(b).
3 Agreement, paragraph 8, page 2.
4 Agreement, paragraph 8, page 3.
5 Id.
6 Id.
7 Id.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[8]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, it is noted that to date, it does not appear that Petitioner has submitted either an oath or declaration. Petitioner will note that the filing of a petition under 37 C.F.R. §1.47(b) does not allow the applicant to escape the requirements of 37 C.F.R. §1.63

Rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. See also MPEP §409.03(b). Submission of an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 is required.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows

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8 See MPEP §409.03(g).

9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

11 (703) 872-9306.

LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

BERKELEY LAW & TECHNOLOGY GROUP
5250 NE ELAM YOUNG PARKWAY
SUITE 850
HILLSBORO OR 97124

In re Application of	:	
Shaolin Li	:	
Application No. 10/820,963	:	DECISION ON RENEWED
Filed: April 7, 2004	:	PETITION UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. Epogy 2004-4	:	
Title: MONITORING SYSTEM USING MULTI-ANTENNA TRANSCEIVERS	:	

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.
With this renewed petition, Petitioner has included a one-month extension of time to make timely this response[2], as well as a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) and (7) above.

It is noted that the declaration which Petitioner has submitted with this renewed petition fails to comply with 37 C.F.R. §1.63 in that it fails to list the citizenship for the inventor.

As such, Petitioner has met requirements (1) – (7) above, but requirement (8) has not been met. The renewed petition is **DISMISSED**.

On second renewed petition, Petitioner should submit an acceptable oath or declaration.

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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The Change in Correspondence Address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

2 The renewed petition contains a certificate of mailing dated January 13, 2005.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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HILLSBORO OR 97124

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of
Shaolin Li
Application No. 10/820,963
Filed: April 7, 2004
Attorney Docket No. Epogy 2004-4
Title: MONITORING SYSTEM USING MULTI-ANTENNA TRANSCEIVERS

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the second renewed petition under 37 CFR §1.47(b)[1], filed May 17, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

The renewed petition was submitted on January 18, 2005, and was dismissed via the mailing of a decision on April 7, 2005 for failure to submit an acceptable declaration.

With the present petition, an acceptable declaration has been submitted.

As such, the petition under 37 C.F.R. §1.47(b) 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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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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San Francisco, California 94111-3834

MAILED

JUN 0 8 2006

TECHNOLOGY CENTER 2100

In re Application of:
Kazuhisa FUJIMOTO et al.
Application No. 10/820,964
Filed: April 7, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on 07 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 and a decision on the request to withdraw petition to make special filed on 31 October 2005

The petition is **DISMISSED AS MOOT**.

In view of the applicant's request to withdraw petition to make special, applicant's submission of 07 April 2005 has not been considered and decided by the undersigned. Accordingly, the petition is **DISMISSED AS MOOT**. The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

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

MAILED

SEP 3 0 2005

Technology Center 2100

In re Application of: MIKI
Application No. 10/920,974
Filed: August 18, 2004
For: VOLUME PROVIDING SYSTEM AND METHOD

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

This is a response to the petition filed 22 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 22 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. Some of the limitations purporting to distinguish independent claims 9 and 10 from each reference do not appear to be in these claims. For example, claim 9 does not appear to require a "volume filter program/means or method". Claim 10 does not require "volume interface program/means that provides an interface for logical volumes to the target program" (emphasis added) nor does it require "provid[ing] the selected logical volume to the target program via the volume interface program" (emphasis added).

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

ds

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SEP 0 1 2009

OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of :
Endler et al. :
Application No. 10/820,979 : ON APPLICATION FOR
Filed: April 7, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 81490 7114 :
Title: METHODS AND :
APPARATUSES FOR VIEWING :
CHOICES AND MAKING SELECTIONS :
:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 23, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred and sixty-six (466) days, not three hundred and ninety-four (394) 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) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[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.

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 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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OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Patent No. 7,600,201	:	DECISION ON REQUEST
Endler et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/820,979	:	PATENT TERM ADJUSTMENT
Filed: April 7, 2004	:	and
Atty Docket No. 81490 7114	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 4, 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 four hundred and ninety-five (495) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and ninety-five (495) 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 Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred and ninety-five (495) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,600,201 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Endler 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 423 days

Delete the phrase "by 423 days" and insert – by 495 days--

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

Mail Date: 07/14/2010

Applicant	: Amol Khare	: DECISION ON REQUEST FOR
Patent Number	: 7650635	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/820,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ronald D. Trice
6412 Brandon Avenue #145
Springfield, VA 22150

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OFFICE OF PETITIONS

In re Application of	:	
Stephen M. Kelly et al.	:	
Application No. 10/820,993	:	DECISION ON PETITION
Filed: April 9, 004	:	TO WITHDRAW
Attorney Docket No. ZLX-HUL-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2006.

The request is **APPROVED**.

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

The request was signed by Ronald D. Trice the sole attorney of record.

Ronald D. Trice has been withdrawn as attorney or agent 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.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Stephen M. Kelly
25 Richmond Way
Beverley HU17 8XA

cc: McKee, Voorhees & Sease
801 Grand Avenue
Suite 3200
Des Moines, IA 50309-2721

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LIVERMORE CA 94550

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OFFICE OF PETITIONS

In re Application of
Lida Nobakht et al.
Application No. 10/821,000
Filed: April 7, 2004
Attorney Docket No. CTV-002-1D

: DECISION GRANTING PETITION

This is a decision on the petition filed July 9, 2007 under 37 CFR 1.137 (b) to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **DISMISS**ED as involving moot issues.

In response to a Final Office Action mailed June 13, 2006, a Notice of Appeal was filed with a three month extension of time on December 13, 2006. Pursuant to 37 CFR 1.192(a) an appeal brief (and fee required by 37 CFR 1.17(c)) were required within two months of the filing of the Notice of Appeal.

As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 13, 2006, petitioner assumed that the application was abandoned however, under the provisions of 37 CFR 1.136(a), an extension of time up to five months could have been obtained. As the period for extensions had not expired, the application is not abandoned and the petition to revive is premature.

In view thereof, and in accordance with the authorization to charge petitioner's deposit account, $1080.00 has been charged to deposit account no. 50-0574 for a five month extension of time to make the filing of the Appeals Brief timely filed. The petition fee in the amount of $750.00 has been credited back to deposit account no. 50-0574 as there is no need to treat the petition.

This application is being forwarded to Technology Center 2154 for review of the Appeal Brief filed July 9, 2007.

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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TOLER & LARSON & ABEL L.L.P.
5000 PLAZA ON THE LAKE STE 265
AUSTIN, TX 78746

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OFFICE OF PETITIONS

In re Application of
Xiong et al.
Application No. 10/821,010
Filed: April 8, 2004
Attorney Docket No. 1014-SP215-US

Decision on Petition

This is a decision on the petition filed October 18, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 5 of the drawings, containing Figures 8 and 9, was part of the originally filed application.

The application was filed on April 8, 2004. On August 13, 2004, a Notice was mailed stating that Figures 8 and 9 described in the specification did not appear to be included as part of the application filed.

The present petition alleges that Figures 8 and 9 were deposited on April 8, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 6 sheets of drawings on April 8, 2004.[1]

The USPTO file for this application includes only 5 sheets of drawings and does not include the drawing sheet containing Figures 8 and 9 described in the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is **granted**.

No petition fee is required and none has been charged.

The Notice mailed August 13, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of this decision and will further process the file with a filing date of April 8, 2004, using the application papers filed on April 8, 2004, and the copy of page 5 of the drawings, containing Figures 8 and 9, filed on October 18, 2004. The Office of Initial Patent Examination will also forward the petition to make special to the party responsible for rendering a decision on that petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card 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 post card in the outgoing mail. "A post card 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." M.P.E.P. § 503.

SP #215 (3723)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	XIONG et al.
Serial No.	Not Assigned Yet 10/821010
Filing Date	Filed Herewith 4-8-2004
Title	BIAXIALLY-TEXTURED FILM DEPOSITION FOR SUPERCONDUCTOR COATED TAPES
Examiner	Not Assigned Yet Cooke, Colleen
Art Unit	Not Assigned Yet 1754

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

STATEMENT UNDER 37 C.F.R. § 1.102 FOR PETITION TO MAKE SPECIAL

Dear Sir:

This invention involves superconductive materials, as well as methods of making same. As such, Applicants respectfully request that this application be accorded "special" status.

According to MPEP 708.02, item IX, Applicants believe there is no fee due for the filing of this petition. However, if this is incorrect, the Commissioner is authorized to charge any additional fees that may be due, or credit any overpayment, to **Deposit Account Number 04-1448.**

Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned representative.

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
JAN 30 2006

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JUN 23 2008

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

In re Application of :
ALLEN, Theresa M. et al. :
Application No. 10/821,018 : DECISION ON PETITION
Filed: April 07, 2004 : TO WITHDRAW
Attorney Docket No. **55325-8148.US08** : 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 01, 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 Judy M. Mohr on behalf of all attorneys of record who are associated with customer No. 22918. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THERESA M. ALLEN**
11223 72ND STREET
EDMONTON, ALBERTA, T6G OB4
CANADA

cc: **PHILIP S. JOHNSON**
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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In re Application of :

ALLEN, Theresa M. et al. :
Application No. 10/821,021 : DECISION ON PETITION
Filed: April 07, 2004 : TO WITHDRAW
Attorney Docket No. **55325-8148.US07** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 01, 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 Judy M. Mohr on behalf of all attorneys of record who are associated with customer No. 22918. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THERESA M. ALLEN**
11223 72ND STREET
EDMONTON, ALBERTA T6G OB4
CANADA

cc: **PHILIP S. JOHNSON**
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: David Shippy	: DECISION ON REQUEST FOR
Patent Number	: 7596682	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** 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 5 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:	
Williams et al.	:	
Serial No.: 10/821,028	:	SUSPENSION OF ACTION
Filed: April 8, 2004	:	
Attorney Docket No.: P06279US01 - PHI 1337	:	

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicants' request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

J. NICHOLAS GROSS, ATTORNEY AT LAW
726 DUBOCE AVE.
SAN FRANCISCO CA 94117

COPY MAILED

OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/821,038 : DECISION ON PETITION
Filed: April 7, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. **012.P3002** :
Title: METHOD OF OPERATING MULTI-ANTENNA WIRELESS DATA PROCESSING SYSTEM :

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The petition fee has been charged to Petitioner's Deposit Account.

Petitioner states that a copy of the application was sent to the inventor. The Office will assume that this copy was a complete copy. Secondly, Petitioner states that his firm mailed the application to the inventor. The Office will assume that he personally sent the package to the inventor, and makes this statement as one who has firsthand knowledge of the underlying event.

Furthermore, it is noted that Petitioner has not explicitly stated whether the inventor cannot be found or whether he refuses to cooperate. However, since a complete copy of the application was sent to the inventor, and since a search did not result in any alternate address, the Office will assume that Petitioner is asserting that the inventor refuses to cooperate. Petitioner must notify the Office if these interpretations are incorrect.

Petitioner has met requirements (1) – (5) above.

Regarding the sixth requirement above, Rule 47 applicant has not established sufficient proprietary interest in the subject matter to justify the filing of the application, in that the chain of title is not complete[2]. Petitioner has not established that the non-signing inventor assigned his rights to Epogy Communications, Inc, the first of three purported assignees.

First, the agreement states that during the course of his employment, the employee will assign all inventions which are: conceived, developed, or reduced to practice during the time of his employment with Epogy,[3] and are either: related to the business of the employer[4] or his anticipated research or development;[5] are developed with company equipment or on company time[6], or; resulted from any work performed by the employee for the employer[7].

Regarding the first element above, no proof has been submitted that the inventor was employed by Epogy at the time that the invention was conceived, developed, or reduced to practice.

Regarding the second and third elements above, no statement has been made to establish that the present invention falls within these parameters. The Office has no way of determining if this invention has anything to do with the business of the employer, or if the invention was made on company time.

Regarding the final element above, it has not been established that this invention arose from any work performed by the non-signing inventor or Epogy, since all that is known about either is that the inventor was employed as a Senior Member of Technical Staff, in the vaguely titled Technical Development and Design department.

---

2 See 37 C.F.R. §3.73(b).
3 Agreement, paragraph 8, page 2.
4 Agreement, paragraph 8, page 3.
5 Id.
6 Id.
7 Id.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[8]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, it is noted that to date, it does not appear that Petitioner has submitted either an oath or declaration. Petitioner will note that the filing of a petition under 37 C.F.R. §1.47(b) does not allow the applicant to escape the requirements of 37 C.F.R. §1.63

Rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. See also MPEP §409.03(b). Submission of an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 is required.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows

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8 See MPEP §409.03(g).

9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

11 (703) 872-9306.

LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

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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Paper No. None

BERKELEY LAW & TECHNOLOGY GROUP
5250 NE ELAM YOUNG PARKWAY
SUITE 850
HILLSBORO OR 97124

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/821,038 : DECISION ON RENEWED PETITION
Filed: April 7, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. 012.P3002 :
Title: METHOD OF OPERATING MULTI-ANTENNA WIRELESS DATA PROCESSING SYSTEM :

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.
The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

With this renewed petition, Petitioner has included a one-month extension of time to make timely this response, as well as a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) and (7) above.

It is noted that the declaration which Petitioner has submitted with this renewed petition fails to comply with 37 C.F.R. §1.63 in that it fails to list the citizenship for the inventor.

As such, Petitioner has met requirements (1) – (7) above, but requirement (8) has not been met. The renewed petition is **DISMISSED**.

On second renewed petition, Petitioner should submit an acceptable oath or declaration.

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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The Change in Correspondence Address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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SUITE 850
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OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/821,038 :
Filed: April 7, 2004 :
Attorney Docket No. 012.P3002 :
Title: METHOD OF OPERATING MULTI-ANTENNA WIRELESS DATA PROCESSING SYSTEM :

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed May 17, 2005.

The above-identified application was filed on April 7, 2004. On June 21, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the

1 1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

The renewed petition was submitted on January 18, 2005, and was dismissed via the mailing of a decision on April 6, 2005 for failure to submit an acceptable declaration.

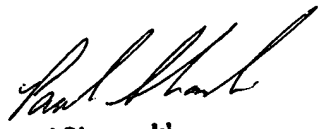
With the present petition, an acceptable declaration has been submitted.

As such, the petition under 37 C.F.R. §1.47(b) 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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 06/16/2010

Applicant	: Shaolin Li	: DECISION ON REQUEST FOR
Patent Number	: 7646744	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/821,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1565** 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID L. GARRISON
GARRISON & ASSOCIATES PS
SUITE 3300
2001 SIXTH AVENUE
SEATTLE, WA 98121-2522

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OFFICE OF PETITIONS

In re Application of	:	
William Gordon	:	
Application No. 10/821,065	:	DECISION ON PETITION
Filed: April 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. GOR101	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed September 8, 2005, 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.

The instant petition fails to meet the criteria of "materially" contributing to countering terrorism as set forth above. The invention relates to a rebreather apparatus for underwater diving. Petitioner states that the invention has uses in countering terrorism and is being tested by the U.S. Department of Homeland Security as evidenced by the attached document, "Unclassified Requirements for the AT-UBA ORD Rev. 2" dated 14 April 2004. While the invention may be beneficial to scuba diving in recreational, commercial, and military applications as stated in the specification, there is no "material" evidence that the invention actually "counters" terrorism as defined in 18 U.S.C. 2331 (repeated above). Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. While the Department of Homeland Security may find the invention useful, it is only one of many uses that needs to be specially applied to the invention since countering terrorism is only a tangential aspect of the overall invention. Therefore the petition does not rise to the level intended by the Rule.

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

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

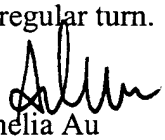
By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 3743 for action in its regular turn.



Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,100	04/07/2004	Zhong Dong	M-15295 US	8965

32605 7590 01/21/2010

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
VU, DAVID	

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
01/21/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MACPHERSON KWOK CHEN & HEID LLP
2033 Gateway Place, Suite 400
San Jose, CA 95110

In re Application of:	:	
Zhong Dong et al.	:	DECISION GRANTING
Serial No.: 10/821,100	:	PETITION UNDER
Filed: April 7, 2004	:	37 CFR 1.181
Attorney Docket No.: M-15295 US	:	

This decision is in response to the Rule 181 Petition Regarding Nonresponse by Examiner to Applicant's/Appellant's Reply Brief filed June 18, 2008.

An Examiner's Answer was mailed to the Appellant on February 25, 2008 in response to a Revised Appeal Brief filed December 14, 2007. A Reply Brief was filed on March 20, 2008 in response to the Examiner's Answer of February 25, 2008. A Response to Reply Brief was mailed to the Appellant on April 16, 2008.

Petitioner asserts that in the Response to the Reply Brief, the Examiner failed to respond to section (D.5) of the Reply Brief regarding the Rule 132 declaration and Appellant's argument that in the Examiner's Answer the examiner incorrectly characterized the declaration as signed by an inventor.

The petition is GRANTED.

The Response to the Reply Brief is hereby vacated. The above-identified application is being forwarded to the examiner for response and consideration of the Reply Brief filed March 20, 2008.

Any inquiry regarding this decision should be directed to Steven Loke, Supervisory Patent Examiner, at (571) 272-1657.

Gladys Corcoran, Acting Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:
Judd	: DECISION REFUSING
Application No. 10/821,112	: STATUS UNDER
Filed: April 8, 2004	: 37 CFR 1.47(b)
Attorney Docket No. JUDD01-00002	:
For: VIRTUAL ANTENNA TECHNOLOGY (VAT) AND APPLICATIONS	:

This is in response to the petition under 37 CFR 1.47(b), filed October 25, 2004 (certificate of mailing date October 21, 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 April 8, 2004 without an executed oath or declaration. Accordingly, on June 21, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on October 25, 2004 (certificate of mailing October 21, 2004), a petition for a two month extension of time and required fee, a surcharge, a basic filing fee, and the instant petition were filed. The petition states that the non-signing inventor Mano Dorsey Judd was e-mailed the application on May 11, 2004 and that a copy of the declaration and power of attorney was later proffered to him during the course of multiple conversations.

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 (1), (2), (5) and (6) set forth above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Daniel E. Venglarik submits that Mr. Judd was e-mailed the application on May 11, 2004 and then subsequently, a declaration and power of attorney was proffered to Mr. Judd during the course of multiple conversations.

The Office must be certain that Mr. Judd received the e-mailed application and that he was apprised of the application to which the subsequently proffered declaration was directed. On the first issue, it is not clear that the e-mail was received by Mr. Judd. On the second issue, since the declaration and power of attorney was proffered to Mr. Judd after the application was e-mailed and during the course of multiple conversations, it is not clear that Mr. Judd knew to which application the declaration was directed.

Petitioner is asked to submit documentary evidence, such as copies of e-mails, showing that Mr. Judd had an opportunity to examine the application papers and that Mr. Judd refused to return a signed declaration.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

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 has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration.

Where a corporation is the Rule 47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) may sign the declaration on behalf of the corporation. Another individual may sign for the corporation, but an officer of the corporation must authorize the individual to sign on its behalf. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation.

The Office requires petitioner to submit a new declaration with the signer's name and title listed thereon in addition to the information pertaining to the inventor. As stated above, the signer must be authorized to bind the corporation. An oath or declaration in compliance with 37 CFR 1.63 signed by the Rule 1.47 applicant on behalf of the inventor is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show or provide proof that Davis Munck, P.C. has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant;

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights

of the parties would be sufficient.

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

By mail: Mail Stop PETITION
Commissioner for Patents
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
www.uspto.gov

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
Judd
Application No. 10/821,112
Filed: April 8, 2004
Attorney Docket No. JUDD01-00002
For: VIRTUAL ANTENNA TECHNOLOGY (VAT) AND APPLICATIONS

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

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed March 28, 2005 (certificate of mailing date October 21, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Mano Dorey Judd, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Daniel E. Venglarik establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Davis Munck, A Professional Corporation (Davis Munck) has a proprietary interest in the above-identified application with the copy of the agreement showing that the inventor had granted a security interest in the invention to Davis Munick. Mr. Venglarik states that Davis Munck has executed on that security interest and is now 100% owner of the invention. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2821 for examination in due course.

Telephone inquiries should be directed to the undersigned at (517) 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
www.uspto.gov

MANO DORSEY JUDD
316 HARBOR LANDING DRIVE
ROCKWALL, TX 75032

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Judd :
Application No. 10/821,112 : LETTER
Filed: April 8, 2004 :
Attorney Docket No. JUDD01-00002 :
For: VIRTUAL ANTENNA TECHNOLOGY :
(VAT) AND APPLICATIONS

Dear Mr. Judd:

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

As the 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: Docket Clerk
P.O. DRAWER 800889
DALLAS TX 75380

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/24/04

Alexander J. Smolenski, Jr.
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/821124 received on 05/05/04 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16, 2010

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821126 Patent No.: 7395074

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch
703-756-1573

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: _____

Primary Examiner _____ SPE 2617 Art Unit

Do not enter. 02/18/2010 /David Nguyen/ Cof C

OIPE
MAR 20 2009
PATENT & TRADEMARK OFFICE

Attorney's Docket No. 915-007.086

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number:	**7,395,074**
Issued:	**July 01, 2008**
Application No.:	**10/821,126**
Name of Patentee:	**Jari SYRJÄRINNE**
Title of Invention:	***Position detection with frequency smoothing***

Certificate
MAR 24 2009
of Correction

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

ATTENTION: Decision and Certificate of Correction
Branch of the Patent Issue Division

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR 1.322(a))

1. Attached in duplicate is Form PTO-1050 with at least one copy being suitable for printing.

NOTE: Form PTO-1050, using the column and line number in the printed patent, should be used exclusively regardless of the length or complexity of the subject matter. MPEP § 1485.

NOTE: The patent grant should be retained by the patentee. The PTO does not attach the certificate of correction to the patentee's copy of the patent. The patent grant will be returned to the patentee if submitted. MPEP § 1485.

CERTIFICATE OF MAILING/TRANSMISSION UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING
☒ deposited with the United States Postal Service with sufficient postage as first-class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 17 March 2009

FACSIMILE
☐ transmitted by facsimile to the U.S. Patent and Trademark Office.

Signature

Annemarie Maher
(type or print name of person certifying)

2. The exact page and line number where the errors are shown correctly in the application file are:

1. **Information Disclosure Statement filed June 10, 2004, subsequently considered by the Examiner on April 02, 2007 (included with Office Action issued April 11, 2007).**

NOTE: This information should be identified in this request, however, on Form PTO-1050, only the column and line number in the printed patent should be used. MPEP § 1485.

3. Please send the Certificate to:

Name: **Keith R. Obert**
Ware, Fressola, Van Der Sluys & Adolphson LLP
Address: **Bradford Green, Building Five, 755 Main Street, P.O. Box 224**
Monroe, Connecticut 06468

(Complete, if applicable)

Signature(s) of patentee(s)

or

Signature of assignee or person authorized to sign on behalf of assignee

(type or print name of assignee)

[ ] Assignment recorded on

Date

Keith R. Obert, Reg. No. 58,051
(type or print name of authorized person signing)

Reel
Frame

Attorney for Patentee
(Title of authorized person signing)

[ ] Recordal of assignment attached

[ ] Attached is a "CERTIFICATE UNDER 37 CFR 3.73(b)" establishing the right of the assignee to take action in this case.

NOTE: "A certificate of correction, under 35 U.S.C. 254, may be issued at the request of the patentee or his assignee." 37 CFR 1.322(a). The certificate of correction can be signed by the attorney of record who acts on behalf of the inventor(s) or assignee(s).

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
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 FormPTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,395,074
DATED	:	July 01, 2008
APPLICATION NO.:		10/821,126
INVENTOR(S)	:	Jari SYRJÄRINNE
TITLE	:	Position detection with frequency smoothing

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

1. On patent cover sheet under "References Cited – Other Publications," please insert the following two references:

   --G. Lachapelle et al., "High-precision GPS navigation with emphasis on carrier-phase ambiguity resolution," Marine Geodesy, vol. 15, pages 253-269.

   J. Farrell et al., "The global positioning system and inertial navigation," pages 257-263.--

MAILING ADDRESS OF SENDER: DOCKET # 915-007.086 PATENT NO. 7,395,074

Keith R. Obert
Ware, Fressola, Van Der Sluys & Adolphson LLP
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468

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

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also FormPTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,395,074
DATED	:	July 01, 2008
APPLICATION NO.:		10/821,126
INVENTOR(S)	:	Jari SYRJÄRINNE
TITLE	:	Position detection with frequency smoothing

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

1. On patent cover sheet under "References Cited – Other Publications," please insert the following two references:

   --G. Lachapelle et al., "High-precision GPS navigation with emphasis on carrier-phase ambiguity resolution," Marine Geodesy, vol. 15, pages 253-269.

   J. Farrell et al., "The global positioning system and inertial navigation," pages 257-263.--

MAILING ADDRESS OF SENDER: DOCKET # 915-007.086 PATENT NO. 7,395,074

Keith R. Obert
Ware, Fressola, Van Der Sluys & Adolphson LLP
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

J. NICHOLAS GROSS, ATTORNEY AT LAW
726 DUBOCE AVE.
SAN FRANCISCO CA 94117

COPY MAILED

OCT 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/821,143 : DECISION ON PETITION
Filed: April 7, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket No. Epogy 2004-1 :
Title: MULTI-ANTENNA WIRELESS :
DATA PROCESSING SYSTEM :

This is in response to the petition under 37 CFR §1.47(b)[1], filed August 27, 2004.

The above-identified application was filed on April 7, 2004. On June 22, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The petition fee has been charged to Petitioner's Deposit Account.

Petitioner states that a copy of the application was sent to the inventor. The Office will assume that this copy was a complete copy. Secondly, Petitioner states that his firm mailed the application to the inventor. The Office will assume that he personally sent the package to the inventor, and makes this statement as one who has firsthand knowledge of the underlying event.

Furthermore, it is noted that Petitioner has not explicitly stated whether the inventor cannot be found or whether he refuses to cooperate. However, since a complete copy of the application was sent to the inventor, and since a search did not result in any alternate address, the Office will assume that Petitioner is asserting that the inventor refuses to cooperate. Petitioner must notify the Office if these interpretations are incorrect.

Petitioner has met requirements (1) – (5) above.

Regarding the sixth requirement above, Rule 47 applicant has not established sufficient proprietary interest in the subject matter to justify the filing of the application, in that the chain of title is not complete[2]. Petitioner has not established that the non-signing inventor assigned his rights to Epogy Communications, Inc, the first of three purported assignees.

First, the agreement states that during the course of his employment, the employee will assign all inventions which are: conceived, developed, or reduced to practice during the time of his employment with Epogy,[3] and are either: related to the business of the employer[4] or his anticipated research or development;[5] are developed with company equipment or on company time[6], or; resulted from any work performed by the employee for the employer[7].

Regarding the first element above, no proof has been submitted that the inventor was employed by Epogy at the time that the invention was conceived, developed, or reduced to practice.

Regarding the second and third elements above, no statement has been made to establish that the present invention falls within these parameters. The Office has no way of determining if this invention has anything to do with the business of the employer, or if the invention was made on company time.

Regarding the final element above, it has not been established that this invention arose from any work performed by the non-signing inventor or Epogy, since all that is known about either is that the inventor was employed as a Senior Member of Technical Staff, in the vaguely titled Technical Development and Design department.

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2 See 37 C.F.R. §3.73(b).
3 Agreement, paragraph 8, page 2.
4 Agreement, paragraph 8, page 3.
5 Id.
6 Id.
7 Id.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[8]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, it is noted that to date, it does not appear that Petitioner has submitted either an oath or declaration. Petitioner will note that the filing of a petition under 37 C.F.R. §1.47(b) does not allow the applicant to escape the requirements of 37 C.F.R. §1.63

Rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. See also MPEP §409.03(b). Submission of an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 is required.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should: establish sufficient proprietary interest or submit a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant; provide proof of irreparable damage, and; submit an acceptable oath or declaration.

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 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[9], hand-delivery[10], or facsimile[11].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. A change of correspondence address has been filed with this petition. However, the request was not signed by an attorney of record, but rather by one "Julia Ceffalo, Authorized Person, Bellow Bellows

---

8 See MPEP §409.03(g).

9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

10 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

11 (703) 872-9306.

LLC." Since the chain of title is incomplete, this request will not be entered. Should the Petitioner, who is listed as an attorney of record, wish to receive future correspondence regarding this application, he should execute and submit a change of correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

cc: Howard A. Skaist
Berkeley Law and Technology Group, LLC
5250 NE Elam Young Parkway, #850
Hillsboro, OR 97124

UNITED STATES 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

BERKELEY LAW & TECHNOLOGY GROUP
5250 NE ELAM YOUNG PARKWAY
SUITE 850
HILLSBORO OR 97124

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of
Shaolin Li
Application No. 10/821,143
Filed: April 7, 2004
Attorney Docket No. Epogy 2004-1
Title: MULTI-ANTENNA WIRELESS DATA PROCESSING SYSTEM

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed January 18, 2005.

The above-identified application was filed on April 7, 2004. On June 22, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

---

1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

With this renewed petition, Petitioner has submitted a declaration of facts from one J. Nicholas Gross and a declaration which has been executed by the assignee which satisfy requirements (6) – (7) above. Petitioner has also submitted a one-month extension of time to make timely this response[2].

Regarding the eighth requirement above, it is noted that the declaration which Petitioner has submitted fails to comply with 37 C.F.R. §1.63 in that it fails to list the citizenship for the inventor.

As such, the petition is **DISMISSED**.

On renewed petition, the petitioner should submit an acceptable oath or declaration.

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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, 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 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The Change in Correspondence Address has been entered and made of record.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

2 The petition for extension of time contains a certificate of mailing dated January 13, 2005.
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.

UNITED STATES 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

BERKELEY LAW & TECHNOLOGY GROUP
5250 NE ELAM YOUNG PARKWAY
SUITE 850
HILLSBORO OR 97124

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Shaolin Li :
Application No. 10/821,143 :
Filed: April 7, 2004 :
Attorney Docket No. Epogy 2004-1 :
Title: MULTI-ANTENNA WIRELESS :
DATA PROCESSING SYSTEM :

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the second renewed petition under 37 CFR §1.47(b)[1], filed May 17, 2005.

The above-identified application was filed on April 7, 2004. On June 22, 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 §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on August 27, 2004, along with the surcharge, a statement of the last known address of the inventor, a statement that a complete copy of the application was sent to the non-signing inventor, and a copy of the inventor's employment agreement.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was dismissed via the mailing of a decision on October 13, 2004, for failure to meet requirements (6) – (8) above.

The renewed petition was submitted on January 18, 2005, and was dismissed via the mailing of a decision on March 18, 2005 for failure to submit an acceptable declaration.

With the present petition, an acceptable declaration has been submitted.

As such, the petition under 37 C.F.R. §1.47(b) 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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Paul D. Perry et al. :
Application No. 10/821,179 : DECISION ON PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2004P05545US :

This is a decision on the petition filed February 21, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications set forth in the amendment filed with the petition.

The petition is **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 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 application is being forwarded to Technology Center Art Unit 3753 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.

Nancy Johnson
Senior Petitions Attorney
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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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/821,179	04/09/2004	3753	900	2004P05545US	18	2

CONFIRMATION NO. 8412

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

CORRECTED FILING RECEIPT

OC000000024490025

Date Mailed: 06/22/2007

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

Applicant(s)

Paul D. Perry, Chatham, CANADA;
Andre Veinotte, Dresden, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number **028524**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/817,521 04/05/2004 ABN
which claims benefit of 60/460,510 04/04/2003
and claims benefit of 60/547,602 02/25/2004
and claims benefit of 60/547,829 02/26/2004
and claims benefit of 60/548,813 02/27/2004
and is a CIP of 10/817,522 04/05/2004 PAT 6,889,669
which claims benefit of 60/460,510 04/04/2003
and claims benefit of 60/547,602 02/25/2004
and claims benefit of 60/547,829 02/26/2004
and claims benefit of 60/548,813 02/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/821,179

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

HOUSING FOR A LIQUID SEAL VACUUM AND PRESSURE RELIEF VALVE

Preliminary Class

137

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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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW, SUITE 1000
WASHINGTON, DC 20005

MAILED

JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Rinze BENEDICTUS, et al. :
Application No. 10/821,184 : DECISION GRANTING PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **8674.006.US0000** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1793 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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Novak Druce + Quigg, LLP
1300 Eye Street, NW, Suite 1000
Suite 1000, West Tower
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Rinze Benedictus	: DECISION ON REQUEST FOR
Patent Number	: 7666267	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **803** 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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Novak Druce + Quigg, LLP
1300 Eye Street, NW, Suite 1000
Suite 1000, West Tower
Washington, DC 20005

Mail Date: 05/18/2010

Applicant : Rinze Benedictus
Patent Number : 7666267
Issue Date : 02/23/2010
Application No: 10/821,184
Filed : 04/09/2004

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

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

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

The patent term adjustment has been determined to be **845** 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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED
JUL 14 2005
OFFICE OF PETITIONS

In re Application of :
Yamaguchi et al. : DECISION ON PETITION
Application No. 10/821,197 :
Filed: April 9, 2004 :
Attorney Docket No. 0756-7288 :

This is a decision on the petition filed on September 1, 2004 (certificate of mailing dated August 30, 2004), and resubmitted on February 16, 2005, requesting that the above-identified application be accorded a filing date of April 9, 2004.

On April 9, 2004, applicants deposited the above-identified application. On June 29, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without a specification and that the filing date would be the date of receipt of the specification, including at least one claim. Additionally, the Notice indicated that the statutory basic filing fee and an oath or declaration were missing.

On September 1, 2004 (certificate of mailing dated August 30, 2004), applicants submitted a Verification of Translation,[1] an executed Declaration and Power of Attorney, an English translation of the application, Figures 1A-7H, an Assignment/Recordation Form Cover Sheet, the statutory basic filing fee, a surcharge, claim fees, an assignment recordation fee, and the fee for filing a non-English specification. In addition, applicants submitted a copy of their

[1] Jun Yamada, a translator, verified that the document was a true English translation of U.S. Patent Application No. 10/821,197 filed on April 9, 2004, in Japanese.

return postcard receipt acknowledging receipt of, *inter alia*, 19 pages of a Japanese language specification, claims and abstract.

Upon review of the record, the 19 pages of the Japanese language specification, claims and abstract, deposited on April 9, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 9, 2004, included 19 pages of a Japanese language specification, claims and abstract, which were subsequently misplaced in the United States Patent and Trademark Office.

The Office will accord a filing date to an application meeting the requirements of 35 USC 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file reveals that the application as filed, though in Japanese, was entitled to a filing date of April 9, 2004.

In view thereof, the petition is **GRANTED**. The requirement for a specification set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-2280.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of April 9, 2004**, using the 19 pages of the Japanese language specification, claims and abstract submitted on September 1, 2004, as part of the original disclosure, and to mail a 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

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
10/821,197	04/09/2004	2822	2192	0756-7288	7	23	10

CONFIRMATION NO. 8599

CORRECTED FILING RECEIPT

OC000000017675543

31780
ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

Date Mailed: 12/19/2005

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)

Tetsuji Yamaguchi, Atsugi, JAPAN;
Kengo Akimoto, Atsugi, JAPAN;
Hiroki Kayoiji, Tochigi, JAPAN;
Toru Takayama, Atsugi, JAPAN;

Power of Attorney:
Eric Robinson--38285

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-108479 04/11/2003

If Required, Foreign Filing License Granted: 10/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/821,197

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thin film transistor, electronic device having the same, and method for manufacturing the same

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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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SonoSite, Inc. / Fulbright & Jaworski, L.L.P.
2200 Ross Avenue
Suite 2800
Dallas, TX 75201

Mail Date: 04/21/2010

Applicant	: Donn E. Gabrielson	: DECISION ON REQUEST FOR
Patent Number	: 7643040	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1672** 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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HAYES, SOLOWAY P.C.
175 CANAL STREET
MANCHESTER, NH 03101

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Arra D. **YEGHIAYAN**, et al :
Application No. 10/821,222 : DECISION ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. HILL.1003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $720 ; (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

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

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

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NUVELO
675 ALMANOR AVENUE
SUNNYVALE, CA 94085

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
Labat, Ivan :
Application No. 10/821,234 : DECISION GRANTING PETITION
Filed: April 7, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 821A :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/462,047, filed April 7, 2003, set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed on April 7, 2004, within twelve months of the filing date of the above-noted prior-filed provisional application for which priority is claimed. A reference to the prior-filed provisional application has been included in an ADS.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/462,047 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206.

After a decision has been rendered on the petition filed September 22, 2004 to accord this application a filing date, this matter will be referred to the Office of Initial Patent Examination for further processing and for mailing of a corrected Filing Receipt.

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

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Labat et al. : DECISION ON PETITION
Application No. 10/821,234 :
Filed: April 7, 2004 :
Attorney Docket No. 821A :

This is a decision on the petition filed September 22, 2004 (certificate of mailing September 21, 2004), requesting that the above-identified application be accorded a filing date of April 7, 2004.

On April 7, 2004, applicant deposited the above-identified application. However, on July 21, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application" requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on April 7, 2004, describes drawing Figure 1 but no drawing was filed on April 7, 2004. Additionally, the Notice stated that an oath or declaration was missing.

On September 22, 2004 (certificate of mailing September 21, 2004), applicant filed present petition, an application data sheet, and a declaration. In the present petition, applicant requested that the application be accorded a filing date of April 7, 2004. Applicant admitted that the application was deposited without drawings on April 7, 2004. However, applicant asserted that drawings are not necessary for the understanding of the invention.

As stated in MPEP § 601.01(f), it is the practice of the United States Patent and Trademark Office (Office) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" of July 21, 2004, was mailed in error and is hereby withdrawn.

The application will be accorded a filing date of April 7, 2004, because drawings were not necessary to obtain a filing date. Accordingly, the petition is **granted**.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of April 7, 2004, without any 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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201 INDUSTRIAL ROAD
SUITE 310
SAN CARLOS CA 94070

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of
Ivan Labat et al
Application No. 10/821,234
Filed: April 7, 2004
Attorney Docket No. 821A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 12, 2006.

The petition 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 reason 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 a matter pending before the Office unless such request or such withdrawal is" for one of the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request that: We are no longer representing the inventor, do not meet any of the conditions set forth in 37 CFR 10.40.

All communications from the Office will continue to be directed to the above address of record until otherwise properly notified by applicant/assignee.

This application is abandoned for failure to timely reply to the Restriction Requirement mailed March 3, 3006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
IVAN LABAT
1006 ASBURY WAY
MOUNTAIN VIEW, CA 94043

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Labat et al.	:	
Application No. 10/821,234	:	DECISION ON PETITION
Filed: April 7, 2004	:	
Attorney Docket No. 31280/42996	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 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 Election, (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 1634 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG -2 2007

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PROTEOTECH, INC.
12040 115TH AVE., NE
KIRKKLAND WA 98034

In re Application of	:
Gerado M. Castillo et al	:
Serial No.: 10/821,250	: PETITION DECISION
Filed: April8, 2004	:
Attorney Docket No.: PROTEO.P03CI2	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 11, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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
10/821,258	03/24/2004	3753	450	ADB-4	3	20	3

CONFIRMATION NO. 8631

UPDATED FILING RECEIPT

OC000000013757052

22827
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Date Mailed: 09/09/2004

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)

Dale S. Tripp, Hartsville, SC;

Assignment For Published Patent Application

Anderson Brass Company

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/10/2004

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

US10/821,258

Projected Publication Date: 09/29/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Back flow preventer made of at least two different types of material

Preliminary Class

137

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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Date Mailed : 09/26/08

Patent No. : 7399652 B2
Patent Issued : 07/15/08
Docket No. : **854063.748**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 09/05/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/22/08

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821263 Patent No.: 7399652 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

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.
xDenied	State the reasons for denial below.

Comments: _____

reference cited on PTO-1449 filed 3/15/05.

/gf/ 2823

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

IPE IAP5 SEP 05 2008 PATENT & TRADEMARK OFFICE

10/821,263 PATENT CofC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,399,652
Issue Date : July 15, 2008
Inventor : Simone Sassolini et al.

Docket No. : 854063.748
Date : September 3, 2008

Certificate
SEP 09 2008
of Correction

Mail Stop Certificate of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO ENTER: /GF/

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents:

A certificate of correction is respectfully requested in the above-identified patent. The following errors have been made:

In Section (56)...References Cited, under Foreign Patent Documents, on the face of the patent, the cited reference "JP...10-289876...10/1998" is erroneous and accordingly should be deleted in its entirety, as it was neither cited by the Applicant nor by the Examiner.

Attached is the certificate of correction, which indicates the corrections to be made, by reference to the category and page number in the printed patent. Because the errors were made by the Patent Office, no fee is necessary. However, if they are determined to be our errors, the Director is hereby authorized to charge payment of any fees associated with this communication only to Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

Harold H. Bennett, II
Registration No. 52,404

HHB:at

Enclosures:
Certificate of Correction
Postcard

RECEIVED USPTO
Patent Publication
SEP - 9 2008

SEED Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031
1225606_1.DOC

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,399,652 B2
DATED : July 15, 2008
INVENTOR : Simone Sassolini et al.

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

Face of the Patent
In Section (56)...References Cited, under Foreign Patent Documents, "JP...10-289876...10/1998" should be deleted

RECEIVED USPTO
Patent Publication

MAILING ADDRESS OF SENDER:
Harold H. Bennett, II
Seed Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104

PATENT NO. 7,399,652 B2

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 18, 2006

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/821268 Patent No.: 7,128,105 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: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE **Art Unit** 3751

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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AUG 2 9 2006

OFFICE OF PETITIONS

In re Application of :
Pickleman et al. :
Application No. 10/821,281 : DECISION ON PETITION
Filed: April,8, 2004 :
Attorney Docket No. DEP-0350-R :

This is a decision on the petition under 37 CFR §1.137(b), filed August 14, 2006.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on May 13, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply and one month extension of time were submitted on September 19, 2005. An Office communication was mailed on October 6, 2005 setting a reply period of November 6, 2005. A reply was submitted on October 27, 2005. A Notice of Non-Compliant Amendment was mailed November 8, 2005. The Notice of Non-Compliant Amendment did not provide applicant with additional time for reply. Accordingly, this application became abandoned on November 9, 2005. A Notice of Abandonment was mailed August 8, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be forwarded to Technology Center 3700 for further processing.

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

Charlema R. Grant
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

Patent No. : 7,418,376 B1
Serial No. : 10/821,289
Inventor(s) : Feldstein et al.
Issued : August 28, 2008
Title : **METHOD FOR GENERATING A SIMULATED NETWORK BASED ON AN ACTUAL MANAGED NETWORK**
Docket No. : **2705-0748**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

If 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.

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

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

ecw

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Patent No. : 7,227,688 B2
Serial No. : 10/821,289
Inventor(s) : Grier et al.
Issued : June 5, 2007
Title : **APPARATUS FOR APPLYING OPTICAL GRADIENT FORCES**
Docket No. : **12962.0008.DVUS01**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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WASHINGTON DC 20004

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621 SW Morrison St
Suite 600
Portland OR 97205

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OFFICE OF PETITIONS

In re Patent No. 7,418,376 :
Issue Date: August 26, 2008 :
Application No. 10/821,289 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. 2705-0748 :

This is a decision on the petition filed October 2, 2008, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85 by way of a certificate of correction in the patent to be issued from the above-identified application. Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Cisco Technology, Inc. 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.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Cisco Technology, Inc. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-2991. 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.

Brian Brown
Petitions Examiner
Office of Petitions

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PAUL J. FORDENBACHER
SILICON FOREST PATENT GROUP
11876 NW TYLER CT.
PORTLAND OR 97229

In re Application of :
Timothy W. Lunneborg et al. :
Application No. 10/821,295 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. MAG-2.001.CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 Restriction Requirement, mailed January 26, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 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 election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 3742 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

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8652 RIO GRANDE ROAD
RICHMOND VA 23229

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OFFICE OF PETITIONS

In re Application of :
Duncan C. Fung :
Application No. 10/821,301 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 1696(E&M) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed June 23, 2004, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. A Notice of Abandonment was mailed March 16, 2005. In response, on March 24, 2005, the present petition was filed, along with replacement drawings.

The petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided March 24, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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LOS ANGELES CA 90017

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OFFICE OF PETITIONS

In re Application of	:	
Kim, et al	:	
Application No. 10/821,304	:	ON PETITION
Filed: April 9, 2004	:	
Attorney Docket No. 2080-3248	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 22, 2007.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 6, 2005. This Notice set a statutory period for reply of three (3) months or issue fee transmittal. No issue fee having been received, the application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on October 27, 2005.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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(F/K/A WORKMAN NYDEGGER & SEELEY)
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1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of
Goodson et al.
Application No. 10/821,307
Filed: April 9, 2004
Attorney Docket No. 15999.5

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed July 14, 2005, which is being treated as a petition under 37 CFR §§1.78(a)(3) and 1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **Dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR §§1.78(a)(3) and 1.78(a)(6) and 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) and 1.78(a)(6) 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 petition does not comply with item (1).

A reference to add the above-noted, prior filed applications in the amendment to the specification has been filed with the instant petition. However the amendment is not acceptable as drafted

since it improperly incorporates by reference the prior filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew 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 the 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 (a)(6)can be granted , a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3) and (a)(6), is required.

Further correspondence with respect to this matter may 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

[1]Note 37 CFR 1.121 and 37 CFR 1.116

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 2 9 2005

OFFICE OF PETITIONS

In re Application of	:
Goodson et al.	:
Application No. 10/821,307	: DECISION ON PETITIONS
Filed: April 9, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 15999.5	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed August 26, 2005, which is being treated as a petition under 37 CFR §§1.78(a)(3) and 1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§1.78(a)(3) and 1.78(a)(6) and 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) and 1.78(a)(6) 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 applications is submitted after expiration of the period specified in 37 CFR§§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under

37 CFR §§1.78(a)(3) and 1.78(a)(6) .

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78 (a)(5)(ii). Additionally the intermediate applications were filed within twelve months of the filing date of the prior-filed provisional applications, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the 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); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1775 for appropriate action on the amendment filed August 25, 2005 including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior- filed applications, and for consideration of the claim under 35 U.S.C. §§119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

Attachment: Corrected Filing Receipt

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of :
Manz et al. :
Application No. 10/821,308 : DECISION ON PETITION
Filed: April 9, 2004 :
Atty Docket No. 5454-6 :

This is a decision on the PETITION FOR CORRECTION OF FILING DATE PURSUANT TO 37 C.F.R. § 1.53(e) filed November 8, 2004, requesting that the above-identified application be accorded a filing date of April 9, 2004.

The application was deposited on April 9, 2004. However, on June 22, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application" stating that the application papers had not been accorded a filing date because the application was deposited without drawings. (In addition, the Notice set forth a distinct requirement for a signed oath or declaration.)

On August 19, 2004, applicants filed a response, which included a copy of the 6 sheets of drawings as petitioner maintains the sheets were submitted on original filing (and an executed declaration). No petition accompanied this filing. Accordingly, the Office accorded the application a filing date of August 19, 2004, the date of receipt of drawings.

In response, the present petition was filed. Petitioner maintains that the six sheets of drawings were filed as part of the original application papers, and also as part of the priority document filed concurrently with the original application papers, and so unquestionably have been part of the file of the application from the date the application was filed. In support thereof, applicants submit the declaration of patent attorney Roger Thompson.

Petitioners' evidence has been considered, but not found persuasive that drawings were filed as a part of the original application papers. Papers not present in the application file are not considered present in the application absent convincing evidence to the contrary (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue)

that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.) The petition does not include convincing evidence that the drawings were present as part of the original application papers filed on April 9, 2004.

Nonetheless, a review of the priority document submitted April 9, 2004, reveals that it does include six (6) sheets of drawings containing Figures 1 to 7 which are identical to Figures 1 to 7 which were intended to be filed on April 9, 2004, and which appear to correspond to the figures described in the specification[1]. Accordingly, on petition, the drawings in the priority document will be construed as the drawings for this application for filing date purposes.

The petition is **GRANTED**.

The petition fee will not be refunded since the present petition and petition fee were necessary in view of applicant's filing error.

The application file will be returned to the Office of Initial Patent Examination for

- correction of the filing date to April 9, 2004, using the six (6) sheets of drawings containing Figures 1-7 supplied on August 19, 2004, and an indication in Office records that six (6) sheets of drawings were present on filing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] The priority document is 17 pages long including unnumbered pages (10-15) corresponding to the drawing sheets containing Figures 1 to 7. The priority document also includes an unnumbered page 17 which contains a lone figure 6 which appears to be identical to the FIG 6 shown on page 15 (with FIG 7).

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BLAKELY SOKOLOFF TAYLOR
& ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAIL

AUG 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Jeff Steven Edgett et al.
Application No. 10/821,313
Filed: April 8, 2004
For: METHOD AND SYSTEM FOR VERIFYING AND UPDATING THE CONFIGURATION OF AN ACCESS DEVICE DURING AUTHENTICATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed October 21, 2004.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on June 17, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed the practioners of Schwegman, Lundberg, Woessner & Kluth, P.A. as the attorneys of record of the instant application. The Power Of Attorney of June 17, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Schwegman, Lundberg, Woessner & Kluth, P.A..

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Michelle R. Eason

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

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CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Shiro Uchida et al :
Application No. 10/821,342 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 09792909-5918 :

This is a decision on the petition under 37 CFR 1.313, filed May 11, 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 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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

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Wolf Greenfiled & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Robert J. Antonellis :
Application No. 10/821,345 : DECISION ON PETITION
Filed: April 9, 2004 : TO WITHDRAW
Attorney Docket No. T0592.70000US00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 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 Steven J. Henry 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.

The application became abandoned for failure to timely respond to the Office action mailed July 10, 2008.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert J. Antonellis**
31 Lockeland Ave.
Arlington, MA 02476

cc: **Delivery Management Solutions, Inc.**
70 Marshall Street
Medford, MA 02155

5

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/821,345	04/09/2004	Robert J. Antonellis	T0592.70000US00

CONFIRMATION NO. 1000

POWER OF ATTORNEY NOTICE

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

OC000000035156045

Date Mailed: 03/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2008.

- 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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AUG 17 2004

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

In re Application of	:
Elliott c. Lasser	:
Serial No.: 10/821,352	: PETITION TO MAKE SPECIAL
Filed: April 9, 2004	:
Attorney Docket No.: ELASS.001C1	:

This is in response to applicants' petition filed June 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/21/10

TO SPE OF : ART UNIT 1627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821352 Patent No.: 6951641

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: _____

_____

_____

_____

_____

Padmanabhan 1627

SREENI PADMANABHAN — **SPE**
SUPERVISORY PATENT EXAMINER — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Candice Hellen Brown Elliott	: DECISION ON REQUEST FOR
Patent Number	: 7583279	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **964** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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OCT 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Gregory D. Miller et al :
Application No. 10/821,357 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. :
10021.000201 (P0177-D)

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2006. A Notice of Abandonment was mailed on February 8, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As noted above, 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 July 25, 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance (note attached courtesy copy of the Examiner's Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

A renewed petition under 37 CFR 1.137(b) must be submitted, along with the proper reply to continue prosecution. As noted above, extensions of time are available under 37 CFR 1.136(a). No additional petition fee is required.

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

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

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/821,357	Applicant(s) MILLER ET AL.	
	Examiner Derek J. Rosenau	Art Unit 2834	

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

THE REPLY FILED 21 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *17-33*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: the subject matter added to claims 17 and 20 has not been presented previously and would require further search and consideration.

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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Gregory D. Miller et al :
Application No. 10/821,357 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 10021.000201 :
(P0177-D)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2006. A Notice of Abandonment was mailed on February 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $810 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of July 25, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2834 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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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WILLIAM NUTTLE
P.O. BOX 4240
FOSTER CITY CA 94404

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Gregory D. MILLER, et al :
Application No. 10/821,357 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. P0177-D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 30, 2008.

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

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

This application is being referred to Technology Center AU 2834 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.

Thurman Page
Petitions Examiner
Office of Petitions

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D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET, 6th FLOOR
CLEVELAND OH 44114-2294

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DEC 05 2007

OFFICE OF PETITIONS

In re Application of :
Yeok Sing Sio :
Application No. 10/821,365 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. KL0433US :
(#90232)

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 29, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on July 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 an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of November 29, 2005 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on May 29, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 3676 for appropriate action in the normal course of business on the reply received May 29, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Anders Landin	: DECISION ON REQUEST FOR
Patent Number	: 7606978	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1484** 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
10/821,407	04/08/2004	3737	1370	21763.NP	10	84	11

CONFIRMATION NO. 8433

UPDATED FILING RECEIPT

OC000000015564293

20551
THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
P.O. BOX 1219
SANDY, UT 84070

Date Mailed: 03/24/2005

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)

Steven A. Johnson, Salt Lake City, UT;
Michael Berggren, Salt Lake City, UT;
David T. Borup, Salt Lake City, UT;
Barry K. Hanover, Salt Lake City, UT;
Rita Hanover, Salt Lake City, UT;
Martin Kammeyer, Sandy, UT;
Scott Olsen, Salt Lake City, UT;
Jeffrey Patte, Salt Lake City, UT;
Frank L. Setinsek, Fruit Heights, UT;
Kortlan D. Stewart, Salt Lake City, UT;
James Wiskin, Salt Lake City, UT;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/461,871 04/09/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/821,407

BEST AVAILABLE COPY

Projected Publication Date: 06/30/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Breast scanning system

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory J. Koerner
Redwood Patent Law
1291 East Hillside Boulevard
Suite 205
Foster City, CA 94404

COPY MAILED
JUN 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Strobel, et. al. :
Application No. 10/821,409 :
Filed: April 9, 2004 :
Attorney Docket No. 02647-2502 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed by facsimile transmission on January 9, 2006.

The request is **APPROVED**.

A review of the file record indicates that Gregory J. Koerner: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Gregory J. Koerner has been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest[1]. 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.

This application file is being referred to Technology Center Art Unit 2891, for review of the response to the office action filed May 22, 2006.

[1] The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed by facsimile transmission on January 9, 2006, failed to contain a complete and proper Statement under 37 CFR 3.73(b).

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: David J. Strobel
12872 Glen Circle Road
Poway, CA 92064

Serafini Associates
7660 Fay Avenue Ste. H378
La Jolla, CA 92037

Maxwell Technologies, Inc.
9244 Balboa Avenue
San Diego, CA 92123

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIMONA A. LEVI-MINZI, PH.D.
MCDERMOTT WILL & EMERY LLP
28 STATE STREET
BOSTON MA 02109

COPY MAILED

MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Bornstein :
Application No. 10/821,442 : DECISION
Filed: 9 April, 2004 :
Attorney Docket No. BORNE40606 :

This is a decision on the petitions filed: (a) on 28 November, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 and expedited consideration under 37 C.F.R. §1.182; and (b) and on 13 February, 2008, to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay, and also reasserting the petition under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; the petition under 37 C.F.R. §1.182 is **DISMISSED as moot**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 19 April, 2007 (copy enclosed), with reply due under a non-extendable deadline on or before 19 July, 2007;

- the application went abandoned after midnight 19 July, 2007;

- on 10 August, 2007, the Office mailed a Supplemental Notice of Allowance (copy enclosed);

- the Office mailed the Notice of Abandonment on 22 October, 2007 (copy enclosed);

- on 28 November, 2007, Petitioner filed the instant petition under the petition under 37 C.F.R. §1.181 with, *inter alia*, averment of non-receipt—while Petitioner provides a copy of what is averred to be a copy of the docket sheet of the instant application, Petitioner has ignored the express instructions of the guidance in the Commentary MPEP §711.03 (c) to wit (in pertinent part):

> ***
>
> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> ***

The MPEP is directing Petitioner to present to the Office a copy of the docket report for the due date of the reply, and showing all files with a reply due on that date. Thus, Petitioner can evidence that the Notice in question was not simply misfiled.

Nonetheless, the record is clear that the application was filed with direction to mail to former Counsel to a Boston address associated with a Customer Number, however, that instruction was changed by virtue of a Revocation/Power of Attorney filed on 7 March, 2004, setting forth a Miami mailing address for present Counsel, but whose firm has offices in Boston as well, and that direction was acknowledged by the Office; however, on 24 July, 2006, Counsel Noticed the Office of a change of address to the Boston office and that direction does not seem to have been entered of record—which is why the 19 April, 2007, Notice of Allowance/Allowability and the 10 August, 2007 Supplemental Notice of Allowance all were mailed to the Miami address—an incorrect address—as was the 22 October, 2007, Notice of Abandonment.

Clearly, then, the Office mailed the 19 April, 2007, Notice of Allowance/Allowability , the 10 August, 2007 Supplemental Notice of Allowance, and the 22 October, 2007, Notice of Abandonment to the wrong address.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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

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

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

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

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.

It appears that this issue is moot.

As to the Request for
Expedited Consideration

Petitioner advanced a request for expedited consideration and appears to have done so under the general provisions of under 37 C.F.R. §1.182, however, because the matter was received by the attorneys in the Office of Petitions only at this writing, the matter is now moot.

CONCLUSION

Petitioner appears to have satisfied the burdens herein as to the petition as considered under 37 C.F.R. §1.181 is **granted**; and the 22 October, 2007, Notice of Abandonment is **vacated**.

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

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**; and the petition under 37 C.F.R. §1.182 is **dismissed as moot**.

The instant application is released to Technology Center/AU 3732 to re-mail the Notice of Allowance/Allowability and Fees Due, as well as the Supplemental Notice of Allowance in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 04/19/2007

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Jacqueline Andreu	(Depositor's name)
	(Signature)
	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

TITLE OF INVENTION: INSTRUMENT FOR DELIVERY OF OPTICAL ENERGY TO THE DENTAL ROOT CANAL SYSTEM FOR HIDDEN BACTERIAL AND LIVE BIOFILM THERMOLYSIS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$300	$0	$1000	07/19/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
LEWIS, RALPH A	3732	433-224000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list McDermott Will & Emery, LLP
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: Nomir Medical Technologies, Inc.
(B) RESIDENCE: (CITY and STATE OR COUNTRY): Natick, MA

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☒ Advance Order - # of Copies 5

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 50-1133 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature G Matt McCloskey Date 02/11/08

Typed or printed name G. Matthew McCloskey Registration No. 47,025

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

7590 10/22/2007

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

EXAMINER	
LEWIS, RALPH A	

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
10/22/2007	PAPER

Notice of Abandonment

This application is abandoned in view of:

Applicant's failure to timely pay the required issue fee and publication fee, if applicable, with in the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was not received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
The issue fee required by 37 CFR 1.18 is $_____.
The publication fee, if required by 37 CFR 1.18(d) , is $_____.

(c) ☒ The issue fee and publication fee, if applicable, has not been recieved.

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

FORM PTO-ABN6 (Rev. 08/07)

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 04/19/2007

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

EXAMINER	
LEWIS, RALPH A	
ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 04/19/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

TITLE OF INVENTION: INSTRUMENT FOR DELIVERY OF OPTICAL ENERGY TO THE DENTAL ROOT CANAL SYSTEM FOR HIDDEN BACTERIAL AND LIVE BIOFILM THERMOLYSIS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$300	$0	$1000	07/19/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/06) Approved for use through 05/31/2007.

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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7590 04/19/2007

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McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

TITLE OF INVENTION: INSTRUMENT FOR DELIVERY OF OPTICAL ENERGY TO THE DENTAL ROOT CANAL SYSTEM FOR HIDDEN BACTERIAL AND LIVE BIOFILM THERMOLYSIS

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EXAMINER	ART UNIT	CLASS-SUBCLASS
LEWIS, RALPH A	3732	433-224000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

7590 04/19/2007

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

EXAMINER	
LEWIS, RALPH A	
ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 04/19/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 07/06) Approved for use through 05/31/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/821,442	BORNSTEIN, ERIC	
	Examiner	Art Unit	
	Ralph A. Lewis	3732	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Amendment filed January 29, 2007*.

2. ☒ The allowed claim(s) is/are *1-22*.

3. ☐ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Ralph A. Lewis
Primary Examiner
AU 3732

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In claim 1, lines 11 and 12, the terms "wavelength ranges" have been changed to - - wavelengths - -.

In claim 6, lines 7 and 8, the terms "wavelength ranges" have been changed to - - wavelengths - -.

In claim 12, line 22, the terms "wavelength ranges" have been changed to - - wavelengths - -.

Authorization for this examiner's amendment was given in a telephone interview with Matthew McColoskey on April 12, 2007.

Examiner Comment/ Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

In addition to applicant's remarks, attention is directed particularly to applicant's specification page 30, paragraph [0101] where applicant explains and expresses the criticality of the dual wavelength diode laser in order to gain selective bacterial death at more exposure time without biofilm coagulation at the particularly claimed wavelengths.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712.** Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis
April 11, 2007

Ralph A. Lewis
Primary Examiner
AU 3732

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,442	04/09/2004	Eric Bornstein	BORNE40606	1341

7590 09/28/2007

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131

EXAMINER	
LEWIS, RALPH A	

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
09/28/2007	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.

Second Supplemental Notice of Allowability	Application No. 10/821,442	Applicant(s) BORNSTEIN, ERIC	
	Examiner Ralph A. Lewis	Art Unit 3732	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *amendment filed 4/13/2007*.

2. ☒ The allowed claim(s) is/are *1-32*.

3. ☐ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Ralph A. Lewis
Primary Examiner
AU3732

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the claim listing filed with the amendment of April 13, 2007,

In claim 1, line 11, the terms "wavelength ranges" have been changed to - - wavelengths - -.

In claim 6, line 7, the terms "wavelength ranges" have been changed to - - wavelengths - -.

In claim 12, line 22, the terms "wavelength ranges" have been changed to - - wavelengths - -.

This examiner's amendment addresses the 312 amendment submitted by applicant on April 13, 2007. Applicant's 312 amendment arrived after the Notice of Allowability was prepared, but before it was mailed. This examiner's amendment makes it clear that the agreed to changes are applied to the claims listed in the 312 amendment.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712.** Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis
September 14, 2007

Ralph A. Lewis
Primary Examiner
AU3732

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Paper No.

Simona A. Levi-Minzi, Ph.D.
McDermott Will & Emery LLP
28 State Street
Boston MA 02109

COPY MAILED

NOV 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Eric Bornstein	:	DECISION ON APPLICATION
Application No. 10/821,442	:	FOR
Filed: April 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. BORNE40606	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.705(b) filed June 19, 2008. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to one hundred fifty-four (154) days.

The application for patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED NINE (109) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 30, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants maintain entitlement to 154 days of patent term adjustment at the time of the mailing of the notice of allowance.

The application history has been reviewed and it has been determined that the correct patent term adjustment at the time of the mailing of the notice of allowance is 109 days. This

calculation is based on the following additions to the patent term adjustment calculation:

- A period of adjustment of 398 days is being entered for the Office taking until June 30, 2008 to mail a response to applicants to the request for continued examination (RCE) filed January 29, 2007. See 1.703(a)(2).

Moreover, a review of the record confirms bases for entry of periods of reduction. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

- Pursuant to 1.704(c)(8), a period of reduction of 46 days is being entered for applicant filing an Information Disclosure Statement (IDS) on March 16, 2007, after having filed the RCE on January 29, 2007. This supplemental paper was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement. Accordingly, entry of a period of reduction of 46 days is warranted.

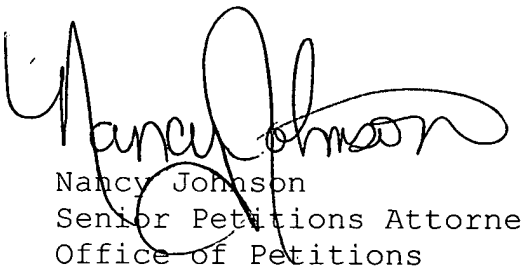
- Likewise, a period of reduction of 28 days is being entered for applicant filing an amendment on April 13, 2007, after having filed the IDS on March 16, 2007. This supplemental paper was not expressly requested by the examiner. Accordingly, entry of a period of reduction of 28 days is warranted.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ONE HUNDRED NINE (109) days.

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

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

PTA Calculations for Application: 10/821442			
Application Filing Date:	04/09/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	109
PTO Delay Adjustment:	324		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	398		
101	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
100	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	73		
99	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
98	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		46	
94	06/30/2008	MAIL CORRECTED NOTICE OF ALLOWANCE			
93	06/30/2008	CORRECTED NOTICE OF ALLOWANCE			
92	06/19/2008	ISSUE FEE PAYMENT RECEIVED			
91	05/28/2008	MAILING CORRECTED NOTICE OF ALLOWABILITY			
90	05/28/2008	CORRECTED NOTICE OF ALLOWABILITY			
89	05/28/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
88	05/28/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
87	05/28/2008	PETITION TO REVIVE APPLICATION - GRANTED			
86	05/27/2008	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
85	03/24/2008	MAIL-PETITION DECISION - DISMISSED			
84	03/24/2008	PETITION DECISION - DISMISSED			
83	02/13/2008	PETITION ENTERED			
82	03/24/2008	MAIL-PETITION DECISION - DISMISSED			
81	03/24/2008	PETITION DECISION - DISMISSED			
80	03/20/2008	CORRESPONDENCE ADDRESS CHANGE			
79	02/13/2008	PETITION ENTERED			
78	11/28/2007	PETITION ENTERED			

77	10/19/2007	FINISHED INITIAL DATA CAPTURE			
76	10/22/2007	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
75	10/02/2007	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
74	10/22/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
73	10/04/2007	WORKFLOW - QUERY REQUEST - FINISH			
72	09/28/2007	TC RETURN TO PUBS			
71	09/28/2007	MAIL EXAMINER'S AMENDMENT			
70	09/26/2007	TC RETURN TO PUBS			
69	09/26/2007	EXAMINER'S AMENDMENT COMMUNICATION			
68	08/20/2007	PUBS CASE REMAND TO TC			
67	08/22/2007	WORKFLOW - QUERY REQUEST - BEGIN			
66	08/14/2007	WORKFLOW - QUERY REQUEST - FINISH			
65	08/10/2007	TC RETURN TO PUBS			
64	08/10/2007	MAILING CORRECTED NOTICE OF ALLOWABILITY			
63	08/08/2007	TC RETURN TO PUBS			
62	07/23/2007	CORRECTED NOTICE OF ALLOWABILITY			
61	05/03/2007	RESPONSE TO REASONS FOR ALLOWANCE			
60	05/30/2007	PUBS CASE REMAND TO TC			
59	06/04/2007	WORKFLOW - QUERY REQUEST - BEGIN			
58	06/04/2007	TC RETURN TO PUBS			
57	05/25/2007	EXPORT TO INITIAL DATA CAPTURE			
56	04/13/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
55	04/19/2007	MAIL NOTICE OF ALLOWANCE			
54	04/19/2007	MAIL EXAMINER'S AMENDMENT			
53	04/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
52	04/13/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	04/12/2007	ISSUE REVISION COMPLETED			
50	04/12/2007	DOCUMENT VERIFICATION			
49	04/12/2007	EXAMINER'S AMENDMENT COMMUNICATION			
48	04/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	04/02/2007	NOTICE OF ALLOWABILITY			
46	03/16/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
45	11/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	03/16/2007	REFERENCE CAPTURE ON IDS			
43.7	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	02/06/2007	DATE FORWARDED TO EXAMINER			
41	01/29/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	02/06/2007	DATE FORWARDED TO EXAMINER			
39	01/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		33	34
38	02/06/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	01/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	01/29/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35.7	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	09/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	09/18/2006	FINAL REJECTION			
32	08/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31.7	08/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	08/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	07/24/2006	NOTICE OF APPEAL FILED			
29	07/26/2006	DATE FORWARDED TO EXAMINER			
28	07/24/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		90	23
27	07/26/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	07/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	07/24/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	01/25/2006	MAIL FINAL REJECTION (PTOL - 326)			

22	01/23/2006	FINAL REJECTION			
21	11/08/2005	DATE FORWARDED TO EXAMINER			
20	11/03/2005	RESPONSE AFTER NON-FINAL ACTION		92	16
19	11/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	06/16/2005	CORRESPONDENCE ADDRESS CHANGE			
17	06/17/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	05/03/2005	MAIL NON-FINAL REJECTION			
15	04/29/2005	NON-FINAL REJECTION			
14	09/24/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	09/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/23/2004	APPLICATION RETURN FROM OIPE			
11	06/23/2004	APPLICATION RETURN TO OIPE			
10	06/22/2004	APPLICATION RETURN FROM OIPE			
9	06/23/2004	APPLICATION IS NOW COMPLETE			
8	06/22/2004	APPLICATION RETURN TO OIPE			
7	06/22/2004	APPLICATION DISPATCHED FROM OIPE			
6	06/23/2004	APPLICATION IS NOW COMPLETE			
5	05/25/2004	CLEARED BY L&R (LARS)			
4	05/12/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/12/2004	CASE CLASSIFIED BY OIPE			
2	04/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821442 Patent No.: 7470124 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: _____

_____

_____

_____

Cris L Rodriguez — **SPE**

3732 — **Art Unit**

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

LAW OFFICES OF LARRY K. ROBERTS, INC.
2 Park Plaza
Suite 300
Irvine CA 92614

In re Application of :
Wojciech B. Kosmowski :
Application No. 10/821,443 : DECISION ON PETITION
Filed: April, 9, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1736.1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 23, 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 signed statement under 37 C.F.R 1.102(c)(1) stating that applicant is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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 3722 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6931992
Issue Date: August 23,2005
Application No. 10821453
Filed: April 9,2004
Attorney Docket No. C179.12-0011

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

This is a decision on the electronic petition, filed March 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6931992	2005-08-23	10821453	2004-04-09	C179.12-0011

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

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	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	/Alan M. Koenck/	Date (YYYY-MM-DD)	2010-03-16
Name	Alan M. Koenck	Registration Number	43724

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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UNITED STATES DEPARTMENT OF COMMERCE
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MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 07/28/2010

Applicant	: David B. Alsobrook	: DECISION ON REQUEST FOR
Patent Number	: 7657919	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/821,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LAW OFFICES OF MARK C. PICKERING
P O BOX 300
PETALUMA, CA 94953

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SEP 28 2005

OFFICE OF PETITIONS

In re Application of :
Abdalla Aly Naem :
Application No. 10/821,501 : DECISION GRANTING PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 100-15121 (P04976-P01-D01-F1) :

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

The petition is **GRANTED**.

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

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

The petition to withdraw from issue was accompanied by a "Request and Certification under 35 U.S.C. 122(b)(2)(B)(i)." However, the filing of this request was unnecessary since this application was filed with a request for nonpublication. The filing of an RCE is not the filing of a new application and, therefore, the submission of a request for nonpublication is improper. Accordingly, the nonpublication request filed with the petition will not be recognized.

---

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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COOK ALEX MCFARRON MANZO
CUMMINGS & MEHLER
200 WEST ADAMS ST., STE. 2850
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Osamu Nozawa et al :
Application No. 10/821,508 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 0524-0139.02 :

This is a decision on the petition under 37 CFR 1.313, filed November 4, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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

www.uspto.gov

Date : November 7, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Osamu Nozawa et al
Application No. : 10/821,508
Filed : April 9, 2004

The above-identified application has been assigned Patent No. 6,966,975 and an issue date of November 22, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 22, 2005:

"All reference to Patent No. 6,966,975 to Osamu Nozawa et al of Tokyo, JAPAN for MANUFACTURING METHOD AND APPARATUS OF PHASE SHIFT MASK BLANK appearing in the Official Gazette of November 22, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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MAR 16 2005
TECHNOLOGY CENTER 3600

MERONI & MERONI
P.O. BOX 309
BARRINGTON, IL 60011

In re application of
Leonard E. Salemi
Application No. 10/821,523
Filed: April 09, 2004
For: ARTICLE STOWAGE SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on February 28, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Salemi 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: 03/04/05

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WILLIAM CLARENCE MILLER
2407 OAK HILL DRIVE
COPPERAS COVE TX 76522

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OFFICE OF PETITIONS

In re Application of	:	
Miller, William Clarence	:	
Application No. 10/821,536	:	ON PETITION
Filed: April 9, 2004	:	
Attorney Docket No. 04-03-2004	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division.

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

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-25-07

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/821562 Patent No.: 7060017

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

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

Please Check Drawings

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

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: _____

DAVID SAMPLE
SUPERVISORY PATENT EXAMINER

SPE

1797
Art Unit

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OFFICE OF PETITIONS

In re Application :
Zhang, et al. :
Application No. 10/821,565 : PATENT TERM ADJUSTMENT
Filed: April 9, 2004 :
Dkt. No.: 2637 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d)," filed April 23, 2009. This matter is being properly considered under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is either 1,394 or 1,340 days, not 852 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. Applicants further acknowledge a possible error in the calculation of a 54 day adjustment in reference to the non-final Office action mailed September 24, 2008.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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 patent term adjustment application fee of $200.00 is hereby acknowledged. See, 37 CFR 1.18(e).

Applicants further indicate that the adjustment of 54 days accorded in connection with the mailing of the non-final Office action mailed September 24, 2008 may be in error. The adjustment has been reviewed and no error in this regard has been found. A review of the record reveals that a final Office action was mailed February 1, 2008. An amendment in response thereto was filed April 1, 2008. An Advisory Action was mailed May 7, 2008. A Notice of Appeal was filed June 2, 2008. A Pre-Appeals Conference Decision reopening prosecution was mailed July 16, 2008. In compliance with the Board decision, the finality of the February 1, 2008 final Office action was withdrawn and a non-final Office action was mailed September 24, 2008. As prosecution was reopened by virtue of the Board decision mailed July 16, 2008, the reply filed April 1, 2008 was deemed responsive to the February 1, 2008 final Office action. Thus, the Office failed, within the meaning of 37 CFR 1.702(a)(2), to reply to a response under 35 USC 132 within four months. Thus, the adjustment of 54 days was properly accorded pursuant to 37 CFR 1.702(a)(2). The adjustment commenced August 2, 2008, the day after the date that is four moths after the date that the reply was filed, and ended September 24, 2008, the date that the non-final Office action was mailed. See, 37 CFR 1.703(a)(3).

In view thereof, as of the time of allowance, an overall adjustment of 852 days was properly determined.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Baoquan Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7596219	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Michel Gilbert et al :
Application No. 10/821,573 : NOTICE
Filed: April 8, 2004 :
Attorney Docket No. 019633-000128US :

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

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

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

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1652.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-27-06

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/821580 Patent No.: 7046201

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

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

Please check C or C

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

E Mary

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: _____

H. Le

SPE

2821

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,046,201 B2
APPLICATION NO. : 10/821,580
ISSUE DATE : May 16, 2006
INVENTOR(S) : Hironori OKDADO

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: Item [75], delete "Okada," and insert -- Okado,--, therefor.

Sheet 3 of 6 Drawings, Fig. 4A, delete "2a" and insert --12a--, therefor.

Sheet 3 of 6 Drawings, Fig 4A, delete "2b" and insert --12b--, therefor.

Column 1, line 9, delete "Descripton" and insert --Description--, therefor.

Column 3, line 60, delete "wherein." And insert --wherein--, therefor.

Column 3, line 63, delete "tips," and insert --tips--, therefor.

Column 3, line 63, delete "extending." And insert --extending--, therefor.

Column 4, line 42, delete "antenna-element" and insert --antenna element--, therefor.

Column 7, line 34, delete "limited,to" and insert --limited to--, therefor.

Column 8, line 50, delete "an d" and insert --and--, therefor.

Column 9, line 34, delete "from-the" and insert --from the--, therefor.

Column 11, line 50, In Claim 1, delete "patterns," and insert --pattern,--, therefor.

Column 12, line 38, In Claim 8, delete "substrates," and insert --substrate,--, therefor.

Column 12, line 66, In Claim 11, delete "conmprises" and insert --comprises--, therefor.

MAILING ADDRESS OF SENDER:

Katsuhiro Arai
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. TAYU.005AUS

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re application of:
David Wake, et al.
Application No. 10/821,590
Filed: April 9, 2004
For: OPTICAL FIBER COMMUNICATIOINS METHOD AND SYSTEM WITHOUT A REMOTE ELECTRICAL POWER SUPPLY

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on May 16, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 25224 have been withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Burt Magen
Vierra Magen Marcus Harmon
& DeNiro LLP
685 Market Street, Suite 540
San Fransicso, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 19 2004

OFFICE OF PETITIONS

In re
Gilbert, et al.
Application No. 10/821,604
Filed: April 8, 2004
Attorney Docket No. 019633-000129US

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed September 24, 2004.

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

Deposit Account No. 20-1430 has been charged $385, representing the deficiency between the small entity and large entity application filing fees.

The change of status to a large entity has been entered and made of record.

The file is being forwarded to Group Art Unit 1632 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 12/23/08

DATE : 12/22/08

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821604 Patent No.: 7462474 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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

N Stead
SPE: Nashaat T. Nashed
Art Unit 1652

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Eric L. Gray	: DECISION ON REQUEST FOR
Patent Number	: 7618440	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **834** 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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Donn P. Cummings : DECISION ON PETITION
Application No. 10/821,632 :
Filed: April 9, 2004 :
Attorney Docket No. DEKA:351US :

This is a decision on the petition filed August 23, 2004, requesting that the above-identified application be accorded a filing date of April 9, 2004.

On April 9, 2004, applicant deposited the above-identified application. However, on June 24, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application" requiring, *inter alia*, drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings.

On August 23, 2004, applicants filed the present petition and a $130.00 petition fee, requesting that the above-identified application be accorded a filing date of April 9, 2004. Applicant stated that the application was deposited without drawings on April 9, 2004, because drawings were not necessary for the understanding of the patented subject matter under 35 U.S.C. § 113.

As stated in MPEP § 601.01(f), it is the practice of the United States Patent and Trademark Office (Office) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

This application contains process claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification. In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" of June 24, 2004, was mailed in error and is hereby withdrawn.

Accordingly, the petition is **granted.** The application will be accorded a filing date of April 9, 2004, without any drawings.

The $130.00 petition fee is unnecessary and will be refunded by to Deposit Account No. 50-1212.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of April 9, 2004, without any drawings, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 10/821,637

DATED: 5/27/08

INVENTOR(S): KATHLEEN NYLUND JACKSON

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

IN THE SPECIFICATION:

Please add the following PRIORITY CLAIM paragraph as the first sentence after the title:

This application is a non-provisional of, claims priority to and the benefit of U.S. Provisional Application No. 60/525,324, filed November 26, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,550,283	:	DECISION ON REQUEST
Holland et al.	:	FOR
Application No. 10/821,640	:	RECONSIDERATION OF
Issue Date: June 23, 2009	:	PATENT TERM ADJUSTMENT
Filed: April 9, 2004	:	and
Atty Docket No.4010.3002 US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 23, 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, two hundred and thirty-four (1234) 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 and sixty-seven (1067) days is **GRANTED to the extent indicated herein.**

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

Patentee disputes the following: the delay associated with the mailing of the restriction requirement on September 21, 2006; the delay associated with the submission of the issue fee payment on May 11, 2009; and the delay associated with the Office taking in excess of three years to issue the patent.

With respect to the delay associated with the mailing of the restriction requirement on September 21, 2006, Patentees have

argued that the consideration of a restriction requirement as a "first action on the merits" is "inconsistent with the long standing interpretation of this phrase as being the first action resulting from examination of the claims." This argument will not be considered on the merits.

On February 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 325 days. This determination included calculation of the disputed 469 days for Office delay associated with the mailing of the restriction requirement. PALM records indicate that the issue fee payment was received in the Office on May 11, 2009. No filing of an application for patent term adjustment under 37 CFR 1.705(b) preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended (Monday) May 11, 2009. Accordingly, to the extent the present application requests reconsideration of the 469 day adjustment, it is appropriate to dismiss this petition as untimely filed.

With respect to the delay associated with the submission of the issue fee payment on May 11, 2009, Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A notice of allowance was mailed on February 9, 2009, and the issue fee was not received until May 11, 2009, which is three months and two days later. As such, a reduction of two days was assessed. Patentees have argued that this is improper, as May

9, 2009 fell on a Saturday. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii). The period of reduction of 2 days is warranted and will not be removed.

With respect to the delay associated with the failure of the Office to issue the patent within 3 years, the patent issued 3 years and 806 days after its filing date. However, it is noted that the time consumed by the appellate review is excluded from the period of B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Therefore, the 32-day period beginning on January 9, 2009, the date of filing of a notice of appeal and ending on February 9, 2009, the date of mailing of a subsequent notice of allowance is excluded from the period of B-delay. Moreover, the days of "A" delay beginning on January 11, 2009 and ending on February 9, 2009 overlap with the period of B-delay. As such, considering the exclusion of 32 days and the overlap of 30 days, the period of "B" delay is 744 (806 - (32 + 30)) days and thus, the revised patent term adjustment is 1067 days. (The period of 307 days of "B" delay entered at issuance is being removed and a period of 744 days of "B" delay is entered).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

---

[1] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[2] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand and sixty-seven (1067) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,550,283 B2

DATED : **June 23, 2009** **DRAFT**

INVENTOR(S) : Holland 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 630 days

Delete the phrase "by 630 days" and insert – by 1067 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10150-5257

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of :
Balasubramanian Gopalan et al :
Application No. 10/821,642 : DECISION GRANTING PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 043661/1200494-US1 :

This is a decision on the petition, filed December 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 September 1, 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 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\821642.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.*

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)
6938542	2005-09-06	10821644	2004-04-09	688-381

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	/Robert M. Haroun/	Date (YYYY-MM-DD)	2010-05-17
Name	Robert M. Haroun, Esq.	Registration Number	34345

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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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6938542
Issue Date: September 6,2005
Application No. 10821644
Filed: April 9,2004
Attorney Docket No. 688-381

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

This is a decision on the electronic petition, filed May 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

COPY MAILED

DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Aiping Young :
Application No. 10/821,649 : DECISION ON PETITION
Filed: April 8, 2004 :
Atty Docket No. 0018.0024.cip :

This is a decision on the "PETITION UNDER 37 CFR 1.53(e)," filed October 20, 2004. Applicant requests that the above-identified application be accorded a filing date of April 8, 2004, with page 29 of the specification as part of the original application disclosure.

Application papers in the above-identified application were deposited on April 8, 2004. However, on August 20, 2004, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 29 of the specification appeared to have been omitted from the application.

In response, applicant timely filed the instant petition. Applicant asserts that page 29 of the specification was not omitted, but was submitted with the specification on the filing date of April 8, 2004. In support thereof, petitioner submits *inter alia* a copy of their return postcard receipt and a copy of page 29 as originally submitted.

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 petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on April 8, 2004 and the papers submitted therewith assigned application No. 10/821649; 2) it specifically identifies the items being filed, including "_X Specification - Total pages 46 including 8 pages of claims and 1 abstract" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Pursuant to petitioner's duty of good faith and candor to the Office, it is accepted that the return postcard submitted is a true copy of the postcard as returned from the Office. Thus, petitioner has shown that the items denoted, including page 29 of specification, were filed on April 8, 2004.

The application papers already considered received in the Office on April 8, 2004, were reviewed along with the missing page of

specification submitted on petition. These papers together constitute the items described on the postcard receipt as "X Specification - Total pages 46 including 8 pages of claims and 1 abstract." Petitioner has shown that p. 29 of the specification was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

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

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of April 8, 2004, using the application papers received in the Office on that date and the missing page of specification.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Attorney Adviser
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of :
Paul D. Coleman et al :
Application No. 10/821,653 : DECISION DISMISSING PETITIONS
Filed: April 9, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 21108.0060U4 :

This is a decision on the petition filed February 12, 2007, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

Any nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. § 119(e) must be filed within twelve months from the filing date of the provisional

application. An application that itself directly claims the benefit of a provisional application should identify, but not specify the relationship to, the provisional application. If the subject nonprovisional application is not filed within the twelve month period, however, it still may claim benefit of the provisional application via an intermediate nonprovisional application under 35 U.S.C. § 120. The intermediate nonprovisional application must have been filed within twelve months from the filing date of the provisional application and the intermediate nonprovisional application must have claimed the benefit of the provisional application. Further, it must be clearly indicated that the intermediate nonprovisional application is claiming the benefit under 35 U.S.C. § 119(e) of the provisional application. This identification of the intermediate nonprovisional application is necessary so that the Office can determine whether the intermediate nonprovisional application was filed within twelve months of the filing date of the provisional application, and thus, whether the benefit claim is proper.

The amendment to the specification states:

> This application is a continuation-in-part of U.S. Serial No. ~~09/178,170~~ 09/770,534 filed January 25, 2001, which is a continuation of U.S. Serial No. 09/178,170, filed October 23, 1998, which claims the benefit of U.S. Serial No. 60/063,274, filed on October 24, 1997 (now expired) and U.S. Serial No. 60/179,214 filed January 31, 2000 (now expired). The disclosures of the prior applications are incorporated by reference in their entirety in the disclosure of the present application.

The wording of this claim for benefit of priority is improper since the claim, as presented, states that Application No. 09/178,170 claims benefit to a later-filed provisional application; namely, provisional Application No. 60/179,214, which was filed on January 31, 2000. It would be more appropriate for Application No. 09/770,534 to claim benefit of priority to provisional Application No. 60/179,214, as Application No. 09/770,534 was filed within 12 months from the filing date thereof. However, a review of Application No. 09/770,534 fails to disclose that a claim for priority was ever made to provisional Application No. 60/179,214. Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044 45, 174 USPQ 417, 418 19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Accordingly, it would be improper here for petitioner to claim priority to provisional Application No. 60/179,214. Petitioner may wish to consider filing a petition to revive under the unintentional provisions of 37 CFR 1.137(b) in Application No. 09/770,534 solely for the purpose of filing a petition under 37 CFR 1.78(a)(6) to accept a late claim for benefit of priority to provisional Application No. 60/179,214.

Further, the reference to add prior-filed Application No. 09/770,534 in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates this prior-filed application by reference. 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 requested, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) (no additional petition fee is required) must be submitted, along with an amendment or a Supplemental Application Data Sheet complying with the provisions of 37 CFR 1.121 which overcomes the above-noted problems. If a Supplemental Application Data Sheet is submitted, it must be executed in accordance with 37 CFR 1.33(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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUN - 6 2005

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

In re application of Eric B. Norman et al. Application No. 10/821,658 Filed: April 8, 2004 For: DETECTING SPECIAL NUCLEAR MATERIALS IN CONTAINERS USING HIGH-ENERGY GAMMA RAYS EMITTED BY FISSION PRODUCTS	:	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on May 16, 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** .

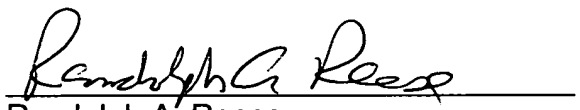
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Prussin 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
(571) 272-6619

SNM/dew: 05/24/05

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

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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of :

NORMAN, et al. :
Application No. 10/821,658 : DECISION ON PETITION
Filed: April 8, 2004 : TO WITHDRAW
Attorney Docket No. 014939-002500US : 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 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 Euginia Garrett-Wackowski on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Eric B. Norman**
63 Kimberlin Heights Drive
Oakland, CA 94708

cc: Timothy J. Lithgow, M.D., J.D.
ERNEST ORLANDO LAWRENCE
BERKELEY NATIONAL LABORATORY
One Cyclotron Road, MS 50A-4119
Berkeley, CA 94720

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/821,658	04/08/2004	Eric B. Norman	014939-002500

CONFIRMATION NO. 8774

OC000000020354344

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

Date Mailed: 09/08/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

In re application of :
Jay Dittmer, et al. :
Application No. 10/821,659 :
Filed: April 9, 2004 :
For: SECURE MOUNTING FOR OVERHEAD MOUNTED PROJECTOR

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 7, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed June 7, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

Regarding element 2(C) above, Information Disclosure Statement was submitted June 7, 2004.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application

simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 11/04/04

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Townsend and Townsend and Crew, LLP]
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeff Blaney, et al.	:	
Application No. 10/821,662	:	DECISION ON PETITION
Filed: April 9, 2004	:	TO WITHDRAW
Attorney Docket No. 20268-705.201	:	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, 2008.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on February 13, 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: **Wilson Sonsini Goodrich & Rosati**
650 Page Mill Road
Palo Alto, CA 94304-1050

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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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6/3/08

Patent No. : 7,341,843 B2
Application No : 10/821,669
Inventor(s) : Atassi
Issued : March 11, 2008
Title : BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

Re: Request for Certificate of Correction

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Valerie Jackson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 114

Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

vj/MFD

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Docket No. 17525 (BOT)

18 PAGES

PATENT IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.:	7,341,843 B2
Issued:	March 11, 2008
Application No.:	10/821,669
Applicant:	Attassi, Z.M.
Confirmation No.:	9880
Filed:	April 9, 2004
Group Art Unit:	1645
Examiner:	Portner, V. A.
Docket No.:	17525 (BOT)
Customer No.:	51957
Patent Title:	Botulinum Toxin A Peptides and Methods of Predicting and Reducing Immunoresistance to Botulinum Toxin Therapy

PETITION

June 12, 2008

By Fax: 571-273-8300

Attn: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

It is our request to correct the Assignee information on the issued U.S. Patent. We inadvertently failed to include the second assignee name on the Issue Fee Transmittal. The Assignment was recorded in the USPTO under both Assignees on May 11, 2007; Reel/Frame 019279/0979. We are also including a copy of this document.

We ask that the file be forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction. Should there be any questions, the Examiner is invited to call the undersigned agent. Please use Deposit Account 01-0885 for the payment of any fees due in connection with the current response.

Respectfully submitted,

Dean G. Stathakis, Ph.D.
Registration No. 54,465
Agent of Record

ALLERGAN
LEGAL DEPARTMENT
2525 Dupont Drive
Irvine, California 92612-1599
Tel: 714/246-6521 Fax: 714/246-4249

PAGE 1/18 * RCVD AT 6/12/2008 2:08:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/34 * DNIS:2738300 * CSID:714 246 4249 * DURATION (mm-ss):03-40

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6/3/08

17525 (BOT)

Patent No. : 7,341,843 B2
Application No : 10/821,669
Inventor(s) : Atassi
Issued : March 11, 2008
Title : BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

RESPONSE DUE 7-3-08
ACTION Resubmit Cert. of Correction

Re: Request for Certificate of Correction

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail: Mail Stop PETITIONS

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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Valerie Jackson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 114

Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

vj/MFD

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Electronic Acknowledgement Receipt

EFS ID:	3198436
Application Number:	10821669
International Application Number:	
Confirmation Number:	9880
Title of Invention:	BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY
First Named Inventor/Applicant Name:	M. Zouhair Atassi
Customer Number:	51957
Filer:	Dean G Stathakis/Bonnie Ferguson
Filer Authorized By:	Dean G Stathakis
Attorney Docket Number:	17525(BOT)
Receipt Date:	23-APR-2008
Filing Date:	09-APR-2004
Time Stamp:	17:14:23
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$100
RAM confirmation Number	2359
Deposit Account	010885
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

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File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Certificate of Correction	4-23-08-COC-17525.pdf	126695 51bf62a8e40ff394dccd3b44e505714f37fe39ff	no	5
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8218 a832fd7f37a73bf47f8101fde69620dfc571d65e	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	134913		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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Patent 7,341,843 **PATENT**

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,341,843	Docket No:	17525 (AP)
Issue Date:	March 11, 2008	Patentee:	M. Zouhair Atassi
Title	BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY		

REQUEST FOR CERTIFICATION OF CORRECTION

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), the examiner is authorized to charge the Certificate of Correction fee of $100.00 to the Deposit Account No.01-0885.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No. 01-0885.

Respectfully submitted

Date: April 23, 2008

By: **/Dean G. Stathakis/**

Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612
Direct: 714-246-6521
Fax: 714-246-4249

Attorney Name: Dean G. Stathakis
Reg. No.: 54,465

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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,341,843

DATED : March 11, 2008

INVENTOR(S) : Atassi

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

On page 1, in field (73), Assignee: after "Allergan, Inc., Irvine, CA (US)", add --Baylor College of Medicine, Houston, TX (US)--

On page 2, in field (56), under "Other Publications", in column 1, line 5, delete "teh" and insert - - the - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 9, delete "e tal," and insert - - et al, - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 12, delete "Hc fragemtn" and insert - - H_c fragment - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 17, delete "reference" and insert - - Reference - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 29, delete "1997., Predicint" and insert - - 1997, Predict - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 31, delete "e al," and insert - - et al, - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 33, delete "Joural" and insert - - Journal - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 56, delete "apges" and insert - - pages - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 65, delete "Toxin;" and insert - - Toxin: - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 65, delete "Implication sof" and insert - - Implications of - -, therefor.

MAILING ADDRESS OF SENDER:
Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

PATENT NO. 7,341,843

Atty Docket No: 17525 (AP)

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,341,843

DATED : March 11, 2008

INVENTOR(S) : Atassi

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

On page 3, in field (56), under "Other Publications", in column 1, line 17, delete "Poreteins" and insert - - Proteins - -, therefor.

On page 3, in field (56), under "Other Publications", in column 1, line 18, delete "Plunum" and insert - - Plenum - -, therefor.

On page 3, in field (56), under "Other Publications", in column 1, line 33-34, delete "Infect. Immun. 69:570-574 (2001)." and insert - - Vaccine 20:2107-2115 (2002). - -, therefor.

On page 3, in field (56), under "Other Publications", in column 2, line 7, delete "Sci," and insert - - Sci. - -, therefor.

On page 3, in field (56), under "Other Publications", in column 2, line 29, delete "purifed" and insert - - purified - -, therefor.

On sheet 15 of 28, Fig. 14, line 1, delete "Per cent" and insert - - Percent - -, therefor.

In column 12, line 34, after "thereof" insert - - . - -.

In column 16, line 23, delete "Hc" and insert - - H_c - -, therefor.

In column 17, line 49-50, delete "imunoresistance" and insert - - immunoresistance - -, therefor.

In column 17, line 51, delete "inventin." and insert - - invention. - -, therefor.

In column 18, line 43, delete "Hc" and insert - - H_c - -, therefor.

In column 22, line 67, delete "an" and insert - - can - -, therefor.

In column 29, line 30, delete "an" and insert - - and - -, therefor.

In column 29, line 37, after "the art" delete "art".

MAILING ADDRESS OF SENDER:
Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

PATENT NO. 7,341,843

Atty Docket No: 17525 (AP)

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,341,843

DATED : March 11, 2008

INVENTOR(S) : Atassi

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

In column 31, line 12, delete "[C15]," and insert - - [C10], - -, therefor.

In column 31, line 49, delete "herein," and insert - - herein. - -, therefor.

In column 32, line 2, delete "polyproplene" and insert - - polypropylene - -, therefor.

In column 36, line 52, delete "N81" and insert - - N8 - -, therefor.

In column 36, line 54, delete "N271" and insert - - N27 - -, therefor.

In column 45, line 49, delete "(±)" and insert - - (±), - -, therefor.

In column 45, line 53, delete "1-25" and insert - - 1-25; - -, therefor.

In column 45, line 54, delete "(+++++)" and insert - - (+++++), - -, therefor.

In column 45, line 55, delete "Hc" and insert - - H_c - -, therefor.

In column 46, line 41, delete "BoNTIA" and insert - - BoNT/A - -, therefor.

In column 48, line 57, after "Synthetic" delete "BoNTIA" and insert - - BoNT/A - -, therefor.

In column 48, line 57, after "to" delete "BoNTIA" and insert - - BoNT/A - -, therefor.

In column 50, line 5, after "50 µl" delete ",".

In column 52, line 23, delete "C10was" and insert - - C10 was - -, therefor.

In column 52, line 51, after "invention" insert - - . - -.

MAILING ADDRESS OF SENDER:
Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

Atty Docket No: 17525 (AP)

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PAGE 9/18 * RCVD AT 6/12/2008 2:08:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/34 * DNIS:2738300 * CSID:714 246 4249 * DURATION (mm-ss):03-40

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,341,843

DATED : March 11, 2008

INVENTOR(S) : Atassi

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

In column 65, line 24, in Claim 1, delete "b" and insert - - b) - -, therefor.

In column 67, line 16, in Claim 13, before "of" delete "or absence".

In column 67, line 18, in Claim 13, delete "immunosorbentassay." and insert - - immunosorbent assay. - -, therefor.

In column 67, line 42, in Claim 15, delete "b" and insert - - b) - -, therefor.

In column 69, line 6, in Claim 24, delete "—or" and insert - - or - -, therefor.

In column 69, line 20, in Claim 25, after "fragment" insert - - of - -.

In column 70, line 42, in Claim 35, delete "1121-1139of" and insert - - 1121-1139 of - -, therefor.

In column 75, line 23, in Claim 65, after "1" insert - - , - -.

In column 75, line 37, in Claim 66, after "BoNT/A" delete " .".

In column 76, line 5, in Claim 69, delete "a" and insert - - an - -, therefor.

MAILING ADDRESS OF SENDER:
Dean G. Stathakis-T2-7H
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

PATENT NO. 7,341,843

Atty Docket No: 17525 (AP)

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N G. STATHAKIS COMPANY:2525 DUPONT DRIVE

UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

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	Company:	2525 DUPONT DRIVE
	Fax Number:	17142464249
	Voice Phone:	
From:	Name:	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Pg#	Description
1	Cover Page
2	638.TXT
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IN G. STATHAKIS COMPANY:2525 DUPONT DRIVE

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

MAY 11, 2007

PTAS

500275216A

500275216A

DEAN G. STATHAKIS
2525 DUPONT DRIVE
T2-7H
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 05/11/2007

REEL/FRAME: 019279/0979
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 17525(BOT)

ASSIGNOR:
ATASSI, M. ZOUHAIR

DOC DATE: 07/28/2004

ASSIGNEE:
ALLERGAN, INC.
2525 DUPONT DRIVE
T2-7H
IRVINE, CALIFORNIA 92612

ASSIGNEE:
BAYLOR COLLEGE OF MEDICINE
ONE BAYLOR PLAZA
HOUSTON, TEXAS 77030

AN G. STATHAKIS COMPANY:2525 DUPONT DRIVE

019279/0979 PAGE 2

SERIAL NUMBER: 10821669 FILING DATE: 04/09/2004
PATENT NUMBER: ISSUE DATE:
TITLE: BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

SERIAL NUMBER: 11693095 FILING DATE: 03/29/2007
PATENT NUMBER: ISSUE DATE:
TITLE: BONT/A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

SERIAL NUMBER: 11693104 FILING DATE: 03/29/2007
PATENT NUMBER: ISSUE DATE:
TITLE: BONT/A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

SERIAL NUMBER: 11693111 FILING DATE: 03/29/2007
PATENT NUMBER: ISSUE DATE:
TITLE: BONT/A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY

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PUBLIC RECORDS DIVISION

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PATENT ASSIGNMENT

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tylesheet Version v1.1

05/11/2007
500275216

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
M. Zouhair Atassi	07/28/2004

RECEIVING PARTY DATA

Name:	Allergan, Inc.
Street Address:	2525 Dupont Drive
Internal Address:	T2-7H
City:	Irvine
State/Country:	CALIFORNIA
Postal Code:	92612

Name:	Baylor College of Medicine
Street Address:	One Baylor Plaza
City:	Houston
State/Country:	TEXAS
Postal Code:	77030

PROPERTY NUMBERS Total: 4

Property Type	Number
Application Number:	10821669
Application Number:	11693095
Application Number:	11693104
Application Number:	11693111

CH $160.00 10821669

CORRESPONDENCE DATA

Fax Number: (714)246-4249
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 7142466521
Email: Ferguson_Bonnie@Allergan.com

AN G. STATHAKIS COMPANY:2525 DUPONT DRIVE

Correspondent Name:	Dean G. Stathakis
Address Line 1:	2525 Dupont Drive
Address Line 2:	T2-7H
Address Line 4:	Irvine, CALIFORNIA 92612

ATTORNEY DOCKET NUMBER:	17525(BOT)
NAME OF SUBMITTER:	Dean G. Stathakis

Total Attachments: 3
source=17525Assignment#page1.tif
source=17525Assignment#page2.tif
source=17525Assignment#page3.tif

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ASSIGNMENT

THIS ASSIGNMENT is made by M. ZOUHAIR ATASSI having a principal place of residence at 11743 CAWDOR WAY, HOUSTON, TEXAS, 77024, (hereinafter ASSIGNOR) to ALLERGAN, INC., having its principal place of business at 2525 DUPONT DRIVE, IRVINE, CALIFORNIA, 92612 and BAYLOR COLLEGE OF MEDICINE, having its principal place of business at ONE BAYLOR PLAZA, HOUSTON, TEXAS, 77030 (hereinafter ASSIGNEES).

WHEREAS, ASSIGNOR has invented and owns a new and useful invention for which an application for Letters Patent of the United States entitled BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY was filed on April 9, 2004, bearing Serial No. 10/821,669;

WHEREAS, ASSIGNOR believes himself to be the original inventor of said invention disclosed and claimed in said application for Letters Patent; and

WHEREAS, as to Baylor College of Medicine, ASSIGNOR acknowledges that he is assigning his right as part of his obligations as College Personnel, under the Baylor College of Medicine Patent Policy; and

WHEREAS, the parties desire to have a recordable instrument assigning the ASSIGNEES as equal co-owners of the entire right, title and interest in, to, and under said invention, said patent application, any patent application entitled to a benefit of priority to said patent application, or any other legal instrument equivalent thereof pertaining to said invention which may be submitted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries, and any Letters Patent or any other legal instrument equivalent thereof pertaining to said invention which may be granted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries:

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that in consideration of the payment by ASSIGNEES to ASSIGNOR of the sum of One Dollar ($1.00) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the ASSIGNOR hereby sells, assigns, transfers and sets over in equal share to ASSIGNEES, their successors, legal representatives and assigns, the full and exclusive right, title and interest in, to, and under said invention, said patent application, any patent application entitled to a benefit of priority to said patent application, or any other legal instrument equivalent thereof including, without limitation, continuation, division, continuation-in-part, substitute, reexamination, reissue, renewal, extensions, inventor's certificate, utility model or any other legal instrument equivalent thereto, pertaining to said invention which may be submitted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries, and any Letters Patent or any other legal instrument equivalent thereof pertaining to said invention which may be granted therefor and thereon in the United States of America, its territorial

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possessions and in any and all foreign countries; and the full and exclusive right, title and interest in, to and under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said ASSIGNEES, their successors, legal representatives and assigns, for the use of said ASSIGNEES, their successors, legal representatives and assigns, for the full end of the term or terms for which the same may be granted, as fully and entirely as the same would have been held and enjoyed by the ASSIGNOR, had this sale and assignment not been made.

AND for the same consideration, said ASSIGNOR hereby covenants and agrees to and with said ASSIGNEES their successors, legal representatives and assigns, that, at the time of execution and delivery of said consideration, said ASSIGNOR is the sole and lawful owner of the full and exclusive right, title and interest in, to and under said invention, said patent application, any patent application entitled to a benefit of priority to said patent application, or any other legal instrument equivalent thereof pertaining to said invention which may be submitted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries, and any Letters Patent or any other legal instrument equivalent thereof pertaining to said invention which may be granted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries; and that no sale, assignment, transfer, or any other agreement or encumbrance was or will be made or entered into which would conflict with this assignment and sale, and that said ASSIGNOR has good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said ASSIGNOR further covenants and agrees to and with said ASSIGNEES, their successors, legal representatives and assigns, that where lawful and desirable and whenever requested by said ASSIGNEES, their successors, legal representatives and assigns, said ASSIGNOR will promptly provide any and all known and accessible facts, data or any other pertinent information thereof; promptly execute and deliver any and all papers, documents, forms, declarations, oaths, affidavits and other legal instrument thereof; promptly assist and participate in any and all depositions, hearings, and trials; and testify under oath in any and all interference, litigation or any other judicial proceeding thereof; and promptly complete any and all actions necessary or desirable to carry out any and all purposes thereof, relating to any and all proceedings in connection with the submission, procurement, issuance, maintenance, enforcement or defense relating to said invention, said patent application, any patent application entitled to a benefit of priority to said patent application, or any other legal instrument equivalent thereof pertaining to said invention which may be submitted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries, and any Letters Patent or any other legal instrument equivalent thereof pertaining to said invention which may be granted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries; without charge to said ASSIGNEES, their successors, legal representatives and assigns, but at the cost and expense of said ASSIGNEES, their successors, legal representatives and assigns.

Best Available Copy

AND said ASSIGNOR hereby authorizes and requests that any Letters Patent or any other legal instrument equivalent thereof pertaining to said invention which may be granted therefor and thereon in the United States of America, its territorial possessions and in any and all foreign countries be issued to said ASSIGNEES, their successors, legal representatives and assigns as the ASSIGNEES of the full and exclusive right, title and interest in, to, and under said invention, for the sole use of said ASSIGNEES, their successors, legal representatives and assigns.

IN WITNESS THEREOF, I have executed this Assignment on this 28 day of July, 2004.

M. Zouhair Atassi

Acknowledgement

State of TEXAS)

) ss:

County of HARRIS)

On this 28 day of July, 2004 before me, M. Zouhair Atassi personally appeared M. ZOUHAIR ATASSI, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS by my hand and official seal.

ANGELEE MARIER MOODY
Notary Public, State of Texas
My Commission Expires
March 23, 2008

Notary Public

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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

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NOV 2 6 2008

In re Patent No. 7,341,843 :
Issue Date: March 11, 2008 :
Application No. 10/821,669 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 17525(BOT) :

This is a decision on (1) the Petition, filed June 12, 2008, and (2) the Request for Certificate of Correction, filed October 2, 2008, which are being treated together as a petition under 37 CFR 3.81. A completed form PTO-SB/44 was also submitted on October 2, 2008.

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

Petitioner states "[w]e inadvertently failed to list the second Assignee on the Issue Fee Transmittal" Accordingly, petitioner requests that a Certificate of Correction be issued to add the erroneously omitted second assignee to the Title Page of the Letters Patent.

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

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

The Petition was accompanied by a Certificate of Correction and deposit account authorization to charge the fees required by 37 CFR 3.81(b). As such, the requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been charged as authorized in the Petition. Further, Office assignment records are consistent with the requested correction. Accordingly, as the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form PTO/SB/44 that accompanied the present Petition.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

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

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,341,843.

Brian W. Brown
Petitions Examiner
Office of Petitions

Electronic Acknowledgement Receipt

EFS ID:	4047752
Application Number:	10821669
International Application Number:	
Confirmation Number:	9880
Title of Invention:	BOTULINUM TOXIN A PEPTIDES AND METHODS OF PREDICTING AND REDUCING IMMUNORESISTANCE TO BOTULINUM TOXIN THERAPY
First Named Inventor/Applicant Name:	M. Zouhair Atassi
Customer Number:	51957
Filer:	Dean G Stathakis/Bonnie Ferguson
Filer Authorized By:	Dean G Stathakis
Attorney Docket Number:	17525(BOT)
Receipt Date:	02-OCT-2008
Filing Date:	09-APR-2004
Time Stamp:	11:51:11
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$100
RAM confirmation Number	10852
Deposit Account	010885
Authorized User	

11/26/2008 LDIEP1 00000011 010885 7341843
01 FC:1464 130.00 DA

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

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ROBERT DEBERARDINE
ABBOTT LATORABORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of :
Nancy E. Sever et al :
Application No. 10/821,695 : DECISION ON PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.53(e)
Attorney Docket No. 7347US01 :

This is a decision on the petition under 37 CFR 1.53(e), filed September 29, 2005, requesting that the Office review the decision "to NOT grant a filing date of April 4 [sic, 9], 2004 to the above-identified application."

The petition is **GRANTED**.

On June 25, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), which set a two month period for submitting the following items: 1) an executed oath or declaration complying with 37 CFR 1.63; 2) surcharge fee of $130 for the late submission of an executed oath or declaration; 3) a substitute specification with proper line spacing; and 4) a substitute specification and substitute drawings as the drawings were improperly embedded in the specification. The Notice indicated that a filing date was granted under 37 CFR 1.53(b).

In reply, applicant, on September 27, 2004 (certificate of mailing date of September 23, 2004), supplied the items required by the Notice of June 25, 2004, along with a one month extension of time. Applicant now seeks, by this petition, accordance of a filing date of April 9, 2004 to this application, rather than the presently accorded date of September 27, 2004.

It is noted that, according to Office records, this application was accorded a filing date of September 27, 2004, the date of filing of the reply to the Notice of June 25, 2004. However, this date is in error as this application was entitled to a filing date of April 9, 2004. Although the drawings (Figures 1 through 16) were physically embedded in the specification, the drawings nevertheless were present on filing.

Accordingly, this application is entitled to a filing date of April 9, 2004 and has been so accorded. A corrected Filing Receipt will be mailed in due course.

This matter is being referred to Technology Center AU 1624 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

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OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Gore, et al. :
Application No. 10/821,706 : DECISION
Filed: 9 April, 2004 :
Attorney Docket No. 030488 :

This is a decision on the petition filed on 29 May, 2007, and supplemented on 30 January, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed on 8 February, 2007, with reply due under a non-extendable deadline on or before 8 May, 2007;
- the application went abandoned by operation of law after midnight 8 May, 2007;
- it does not appear that the Office mailed the Notice of Abandonment before the original petition was filed;
- on 29 May, 2007, Petitioner submitted the original petition under 37 C.F.R. §1.137(b) with fee and reply in the form of fees due, and made a statement (regarding delay) that did not track the regulatory language;

- the Office mailed the Notice of Abandonment on 6 June, 2007;

- on 30 January, 2008, Petitioner supplemented the original petition with a statement of unintentional delay that tracked the regulatory language.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations
of Unintentional Delay

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

Petitioner appear to have satisfied the requirements under the regulation.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SEP 10 2004

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:	
Michael W. Graham et al.	:	
Serial No.: 10/821,710	:	PETITION TO MAKE SPECIAL
Filed: April 8, 2004	:	
Attorney Docket No.: 546322000304	:	

This is in response to applicants' petition filed July 23, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to HIV/AIDS. The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 03-1952, as directed.

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

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

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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of :
Graham, et al. :
Application No. 10/821,710 : DECISION ON PETITION
Filed: April 8, 2004 : TO WITHDRAW
Attorney Docket No. BENI/0022.C2 : 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 12, 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, "the application has been transferred to another firm for handling", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATTON BOGGS, L.L.P.
8484 WEST PARK DRIVE
SUITE 900
MCLEAN, VA 22102

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United States Patent and Trademark Office
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Larry A. Gilbertson	: DECISION ON REQUEST FOR
Patent Number	: 7575917	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/821,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1244** 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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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606

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APR 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,575,917	:
Gilbertson et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/821,711	: PATENT TERM ADJUSTMENT
Filed: April 8, 2004	: AND NOTICE OF INTENT
Attorney Docket No. MONS:140US	: TO ISSUE CERTIFICATE OF
Title: DNA CONSTRUCTS AND	: CORRECTION
METHODS TO ENHANCE THE	:
PRODUCTION OF COMMERCIALLY	:
VIABLE TRANSGENIC PLANTS	:

This is a decision on the petition filed on October 16, 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 seven hundred seventy-seven (777) 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 seven hundred seventy-eight (778) days is **GRANTED to the extent indicated herein.**

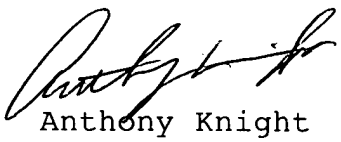
The total reduction for patentees delay is 162 days, not 163 days. More specifically the submission of the supplemental response on March 26, 2009 resulted in a 71-day reduction, not a 72-day reduction. The 71 days was calculated based on the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper filed. Here, the day after the initial reply was submitted was January 15, 2009 and the supplemental reply was submitted on March 26, 2009.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred seventy-eight (778) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: Marshall P. Byrd
Sonnenschein Nath & Rosenthal L.L.P.
2000 McKinney, Suite 1900
Dallas, Texas 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,575,917 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Gilbertson 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 312 days

Delete the phrase "by 312 days" and insert – by 778 days--

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N. KENNETH BURRASTON
KIRTON & MCCONKIE
P.O. BOX 45120
SALT LAKE CITY, UT 84145-0120

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OFFICE OF PETITIONS

In re Application of

Eldridge, et al. :

Application No. 10/821,715

: DECISION ON PETITION

Filed: April 8, 2004

:

Attorney Docket No. P35C1D1-US

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 restriction/ election requirement mailed December 13, 2005, which set a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 14, 2006.

The election filed September 25, 2006, is noted.

The request for an extension of time within the fifth month, filed September 25, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $2160.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2813 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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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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In re Application of :

AMORIN, Teresa et al. :
Application No. 10/821,716 : DECISION ON PETITION
Filed: April 09, 2004 : TO WITHDRAW
Attorney Docket No. **1119309-0006** : 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 26, 2007.

The request is **APPROVED**.

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

The request was signed by John Genova on behalf of all attorneys of record who are associated with customer No. 07470. 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.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of the notice of appeal filed November 09, 2007.

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

/Michelle R. Eason/

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **TERESA AMORIN**
KING'S COURT #S1, APT. 2-A
SAN JUAN, PUERTO RICO 00909

cc: **JOHN A. MARTIN**
PRESIDENT & CEO
WATERVIEW PLAZA CENTER
2001 ROUTE 46, SUITE 310
PARSIPPANY, NJ 07054

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of
Walter R. Merry, et al.
Application No. 10/821,723
Filed: April 8, 2004
Attorney Docket No. 8676/DISPLAY/AKT/RKK

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 8, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 28, 2007. A Notice of Abandonment was mailed on October 23, 2007. On November 8, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 30 2004

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:
Graham et al.	:
Serial No.: 10/821,726	: PETITION TO MAKE SPECIAL
Filed: April 8, 2004	:
Attorney Docket No.: 546322000305	:

This is in response to applicants' petition filed July 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to HIV/AIDS. The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 03-1952, as directed.

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

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

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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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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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OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

In re Application of :
Graham, et al. :
Application No. 10/821,726 : DECISION ON PETITION
Filed: April 8, 2004 : TO WITHDRAW
Attorney Docket No. BENI/0022.C3 : 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 12, 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, "the application has been transferred to another firm for handling", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATTON BOGGS, L.L.P.
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
GOIX, Philippe J. et al. :
Application No. 10/821,727 : DECISION ON PETITION
Filed: April 08, 2004 : TO WITHDRAW
Attorney Docket No. **7028-0851** : 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 09, 2008.

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

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on May 08, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **GUAVA TECHNOLOGIES, INC.**
C/O HOUST CONSULTING
PO BOX 2688
SARATOGA CA 95070-0688

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JAMES RAY & ASSOCIATES
2640 Pitcairn Road
Monroeville, PA 15146

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OFFICE OF PETITIONS

In re Application of	:	
Michael E. Ring	:	
Application No. 10/821,735	:	DECISION ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. MER04069	:	

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

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 19, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-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 March 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $770; 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). Since the $230 extension of time fee submitted on May 20, 2008, 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. Petitioner may also request a refund for the Notice of Appeal fee of $255 submitted with this petition since the fee was previously paid on May 20, 2008. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 3617 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

JUN 30 2008
PATENT & TRADEMARK OFFICE

PTO/SB/64 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it 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): MER 04069

First named inventor: Michael E. Ring

Application No.: 10/821,735 Art Unit: 3617

Filed: April 8, 2004 Examiner: Le, Mark T.

Title: Method of and an Apparatus for Powering and Controlling a Model Railroad End of Train Device

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee –required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Notice of Appeal (identify type of reply):
☐ has been filed previously on _____.
☒ is enclosed herewith.

B. The issue fee of $_____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. 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. 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.

07/01/2008 SSITHIB1 00000085 10821735
01 FC:2453 770.00 DP

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: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

June 26, 2008
Date

Signature

Telephone Number: 412-308-0725

Amos Bartoli
Typed or printed name

2640 Pitcairn Road
Address

Monroeville, PA 15146
Address

Enclosures: ☒ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: Notice of Appeal

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 (703) 308-6916.

June 26, 2008
Date

Maureen Mastromonaco
Signature

Maureen Mastromonaco
Type or printed name of person signing certificate

Application No: 10/821,435 Date: 10/11/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 10/30/08

Petition Fee: ( )$770/SM ( ) $1540/LG ( ) Not Paid

Is statement of unintentional delay present? (✓)YES ( )NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? (✓)YES ( )NO Petition address the same as address in palm. (✓)YES ( )NO

Mail Date of Office Action: 10/19/07

Type of Office Action: Final Rej

Statutory Response Period Set: ( ) 30 days ( ) 1 month ( ) 2 months (✓) 3 months

Ext of time obtained w/in SSP: ( )None ( )1 month ( )2 months ( )3 months ( )4 months

Abandonment Date: 1/20/08

Type of reply received: Notice of Appeal

Terminal Disclaimer required: ( )YES (✓)NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application
510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

502 Granted

Fee Codes

1453/2453	*$1540/$770*	*502/510 Petitions*

Paralegal: JAnne ( )Dismissed (✓)Granted

MAG:01/07

Attorney/Agent Information for 10/821735

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
RAY, JAMES	27666 (Agent)	(412)380-0725
LOTT, ROBERT	28441 (Attorney)	(585)295-4448
FALCE, GARY	29304 (Agent)	(412)461-8390
YODER, MICHELE	41562 (Agent)	(412)471-8815
BARTOLI, AMOS	42299 (Agent)	(412)380-0725
POKOT, ALEXANDER	54376 (Agent)	(412)380-0725

AppIn Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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Attorney Docket # [ ] Search

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Correspondence Address for 10/821735

Customer Number	Contact Information	Address
No Customer # Delivery Mode: PAPER	Telephone: (413)380-0725 Fax: (412)380-0748 E-Mail: No E-Mail Address	JAMES RAY & ASSOCIATES 2640 Pitcairn Road Monroeville PA 15146

AppIn Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign D

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RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10821735 Total Records Found: 14

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/01/2008	00000161	1	2453	$770.00	06/30/2008	CC
07/01/2008	00000162	1	2401	$255.00	06/30/2008	CC
05/20/2008	00000105	1	2401	$255.00	05/20/2008	CC
05/20/2008	00000106	1	2252	$230.00	05/20/2008	CC
03/24/2008	00000092	1	2252	$230.00	03/24/2008	CC
09/14/2007	00000069	1	2253	$510.00	09/14/2007	CC
02/06/2007	00000023	1	2252	$225.00	02/05/2007	CC
02/05/2007	00000016	1	2801	$395.00	02/01/2007	CC
08/07/2006	00000257	1	2251	$60.00	08/07/2006	CC
01/18/2006	00000023	1	2251	$60.00	01/17/2006	CC
07/23/2004	00000001	1	1051	-$130.00	07/19/2004	OP
07/23/2004	00000002	1	2051	$65.00	07/19/2004	CC
07/20/2004	00000109	1	1051	$130.00	07/19/2004	CC
04/13/2004	00000130	1	2001	$385.00	04/08/2004	CC

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LAW OFFICES OF BRIAN S. STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32900

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OFFICE OF PETITIONS

In re Application of :
Kevin D. Belfield :
Application No. 10/821,755 : DECISION ON PETITIONS
Filed: April 9, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. UCF-385 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 17, 2007 and resubmitted October 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. 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 1795 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/821,755	04/09/2004	1795	532	UCF-385	22	6

CONFIRMATION NO. 3191

CORRECTED FILING RECEIPT

23717
LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

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)

Kevin D. Belfield, Oviedo, FL;

Power of Attorney:
Roland Dexter--17668
Joyce Morlin--29170
Brian Steinberger--36423

Domestic Priority data as claimed by applicant

This application is a CIP of 10/306,960 11/27/2002 PAT 7,001,708
which claims benefit of 60/339,283 12/11/2001
and claims benefit of 60/333,972 11/28/2001
This application 10/821,755
claims benefit of 60/463,426 04/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/821,755**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

Two-photon fluorescent ternary optical data storage

Preliminary Class

430

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT M. SPERRY, ESQ.
23390 OSTRONIC DRIVE
WOODLAND HILLS CA 91367

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Philip WILLIS	:	
Application No. 10/821,770	:	DECISION ON PETITION
Filed: April 9, 2004	:	
Attorney Docket No. 004-06	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, to revive the above-identified design application.

The petition is **GRANTED**.

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

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 $770; and (3) an adequate statement of unintentional delay.

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

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

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

Christopher Bottoff

for Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,378,655 :
Issue Date: May 27, 2008 :
Application 10/821,790 : ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. **020859-003210US** :

This is a decision on the petition filed February 26, 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 "The Regents of the University of California, Oakland, CA (US)" 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.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "The Regents of the University of California, Oakland, CA (US)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

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.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) and $100 fee for Request for Certificate of Correction has been assessed to petitioner's deposit account.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on February 26, 2009.

TOWNSEND and TOWNSEND and CREW LLP

By: /Svetlana Ricketts/
Svetlana Ricketts

PATENT
Attorney Docket No.: 020859-003210US
Client Reference No.: CIT-3718

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 9332
Yu-Chong Tai et al.	Examiner: Christine Sung
Patent No: 7,378,655	Art Unit: 2884
Issued: May 27, 2008	Application No.: 10/821,790
For: APPARATUS AND METHOD FOR SENSING ELECTROMAGNETIC RADIATION USING A TUNABLE DEVICE	Filed: April 9, 2004
	REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323 and 37 C.F.R. 3.81 (b)

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

Commissioner:

Pursuant to 37 C.F.R. § 1.323 and 37 C.F.R. 3.81 (b), Applicants submit a Certificate of Correction for the above-identified patent. The desired correction is set forth on form PTO/SB/44, enclosed. The correction to be made is the following:

Add assignee -- The Regents of the University of California, Oakland, CA (US)--

The assignment to the Regents of the University of California was submitted for recordation as set forth under 37 C.F.R. 3.11 before issuance of the patent. This assignment was recorded on 10/27/2005 at reel 017146, frame 0191.

Please charge the Certificate of Correction fee of $100, set forth in 37 C.F.R. 1.20(a), and the processing fee of $130, set forth in 37 C.F.R 1.17(i), to Deposit Account No. 20-1430. Commissioner is authorized to deduct any unanticipated fee, or credit any overpayment to the above-noted Deposit Account.

Respectfully submitted,

Adjustment date: 12/15/2009 LDIEP1
02/27/2009 INTEFSW 00003982 201430 10821790
02 FC:1808 130.00 CR

Kent Tobin
Reg. No. 39,496

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (650) 326-2400
Fax: (650) 326-2422
KJT: s5t
61700616 v1

12/15/2009 LDIEP1 00000007 201430 10821790
Sale Ref: 00000011 DA#: 201430 10821790
01 FC:1464 130.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,378,655

APPLICATION NO.: 10/821,790

ISSUE DATE : May 27, 2008

INVENTOR(S) : Tai et al.

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

Cover page, (73) Assignee, please add

--The Regents of the University of California, Oakland, CA (US)--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

MAILING ADDRESS OF SENDER: Kent J. Tobin
Reg. No. 39,496
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,500,221
Issued: March 3, 2009
Application No. 10/821,825
Filed: April 8, 2004
Dkt. No.: 07781.0158-00

: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT – POST GRANT," filed March 18, 2009. This matter is properly treated under 37 CFT 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,500,221 on March 3, 2009. The patent issued with a PTA of 828 days. The requests for reconsideration of patent term adjustment were timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentee requests that the patent term adjustment be increased from 828 days to 1,243 days.

Patentees request 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 assert entitlement to an adjustment of 1,243 days based on 948 days pursuant to 37 CFR 1.702(a); 415 days pursuant to 37 CFR 1.702(b); less applicant delay of 120 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.

At the time of issuance of the patent, the application was pending three years and 695 days. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 948 days is correct. At issue is whether patentees should accrue an additional 695 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 948 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 695 days of delay in issuance of the patent more than three years after the date that the application was filed overlaps with the period of 948 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 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 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, April 8, 2004, to the date the patent issued on March 3, 2009. Prior to the issuance of the patent, 948 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 695 days for Office delay in issuing the patent overlap with the 948 days of Office examination delay. The Office did not delay 948 days and also delay an additional 695 days. Accordingly, as the 695 days attributable to the delay in the issuance of the patent overlap

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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).

with the adjustment of 948 days attributable to grounds specified in § 1.702(a), entry of both periods is not warranted.

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

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e).

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

Commissioner for Patents
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036-5339

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OFFICE OF PETITIONS

In re Application of :
Kenji Maruyama et al :
Application No. 10/821,841 : DECISION GRANTING PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 107317-00064 :

This is a decision on the petition, filed January 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 17, 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 2812 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 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).*

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of

FIRESTONE, Russell A.
Application No. 10/821,849
Filed: April 12, 2004
Attorney Docket No. **021867.0104PTUS**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 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 Scott A. Chambers on behalf of all attorneys of record who are associated with customer No. 32042. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUSSELL A. FIRESTONE**
3942 GEORGETOWN COURT, N.W.
WASHINGTON, D.C. 20007

cc: **PEDRO F. SUAREZ**
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121-3039

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Patton Boggs LLP
8484 Westpark Drive
Suite 900
Mclean, VA 22102

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Russell A. Firestone III et al.	:	
Application No. 10/821,883	:	DECISION ON PETITION
Filed: April 12, 2004	:	TO WITHDRAW
Attorney Docket No. 36707-501	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2007

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

A review of the file record indicates that the power of attorney to Patton Boggs LLP has been revoked by the assignee of the patent application on November 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: **Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.**
La Jolla Centre II
9255 Towne Centre Drive, Suite 600
San Diego, CA 92121-3039

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Akira Murotani, et al.
Application No. 10/821,888
Filed: April 12, 2004
For: **DISK ARRAY APPARATUS AND DISK ARRAY APPARATUS CONTROL METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 27, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: SUZUKI
Application No. 10/821,889
Filed: April 12, 2004
For: DISK ARRAY APPARATUS

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

This is a decision on the petition filed April 22, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

7/18/05

RP

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

In re Patent No. 7,396,897
Issued: July 8, 2008
Application No. 10/821,914
Filed: April 12, 2004
Dkt. No.: 05725.1286-00

: ON PETITION under
: 37 CFR 1.183 and ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) application for patent term adjustment under 37 C.F.R. § 1.705(d), both filed on December 31, 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 § 1.181(f).

BACKGROUND

On July 8, 2008, the above-identified application matured into U.S. Patent No. 7,396,897 with a revised patent term adjustment of 850 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 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 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, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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 July 8, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 31, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 8, 2008, the date two months from the date this patent issued, July 8, 2008. Rather, on December 31, 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, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

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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

include, pursuant to 37 CFR 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 basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

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 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 could have filed a timely Request for Reconsideration of Patent Term Adjustment, as Wyeth did, but chose not to do so. 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 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.

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promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C.
§ 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

The 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 application for patent term adjustment under 37 CFR 1.705(d), filed December 31, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 1,122 days.

On July 8, 2008, the above-identified application matured into U.S. Patent No. 7,396,897 with a revised patent term adjustment of 850 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on December 31, 2008.

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 fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Maruyama, et al. : DECISION ON PETITION
Application No. 10/821,927 :
Filed: April 12, 2004 :
Atty. Dkt. No.: 07977-297002 / :
US5492D1 :

This is a decision on the petition to withdraw the holding of abandonment, filed October 18, 2007, under 37 CFR 1.181.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The instant application became abandoned April 27, 2007 for failure to timely file a proper reply to the non-final Office action mailed January 26, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed September 26, 2007.

Petitioners argue that the non-final Office action was defective. Petitioners reference oral communications with USPTO employees concerning the content of the non-final Office action. Petitioners submitted an interview summary on July 11, 2007. The interview summary states that a response to the non-final Office action would not be submitted due to reliance on the examiner who indicated the Office action "would be withdrawn and a new office action addressing claims 79-146 would be issued."

A review of the application history does not reveal that the non-final Office action was withdrawn. Nor does the record reflect that the examiner, after having conducted an interview

with applicants, intended to withdraw the non-final Office action and issue a new Office action. Further, an interview summary is not deemed a proper reply to an Office action within the meaning of 37 CFR 1.111.

Accordingly, absent a timely reply to the non-final Office action, the application became abandoned as a matter of law April 27, 2007. *See*, 35 USC 1.133.

As to petitioners' argument that no reply was submitted because he understood the non-final Office action would be withdrawn and a new Office action mailed, petitioners' reliance upon oral advice from USPTO employees is not proper grounds for withdrawal of the holding of abandonment under 37 CFR 1.181. *See, In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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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JUN 20 2008

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-102

In re Application of	:
Maruyama, et al.	: DECISION ON PETITION
Application No. 10/821,927	:
Filed: April 12, 2004	:
Atty. Dkt. No.: 07977-297002 / US5492D1	:

This is a decision on the petition renewed under 37 CFR 1.137(b), April 17, 2008, under 37 CFR 1.181.

The instant application became abandoned April 27, 2007 for failure to timely file a proper reply to the non-final Office action mailed January 26, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed September 26, 2007.

A grantable petition (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been carefully reviewed and found in compliance with the above set forth requirements.

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

This application is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Jessica M. Sunshine et al :
Application No. 10/821,928 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. SAIC0056-CON2

This is a decision on the petition, filed February 9, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Form PTO-1449.

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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OFFICE OF PETITIONS

In re Application of :
Dario Neri, et al. :
Application No. 10/821,930 : DECISION ON PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ELLIS-0002-P02-C01

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on September 4, 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 February 23, 2007.

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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 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 items (1) above.

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition 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 matter is required.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Dario Neri, et al. :
Application No. 10/821,930 : DECISION ON PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ELLIS-0002-P02-C01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 1, 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 22, 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. 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) and (iii) of the prior-filed application(s), 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 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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1645 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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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
10/821,930	04/12/2004	1645	1212	ELLIS-0002-P02-C01	35	5

CONFIRMATION NO. 3681

CORRECTED FILING RECEIPT

23599
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Date Mailed: 05/23/2008

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)

Dario Neri, Zurich, SWITZERLAND;
Lorenzo Tarli, Monteriggioni, ITALY;
Francesca Viti, Genova, ITALY;
Manfred Birchler, Zurich, SWITZERLAND;

Power of Attorney:
Anthony Zelano--27969

Domestic Priority data as claimed by applicant

This application is a CON of 09/512,082 02/24/2000 ABN
which is a CIP of 09/300,425 04/28/1999 ABN
which is a CIP of 09/075,338 05/11/1998 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/821,930**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Specific binding molecules for scintigraphy, conjugates containing them and therapeutic method for treatment of angiogenesis

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

Mail Date: 05/24/2010

Applicant	: Masao Murade	: DECISION ON REQUEST FOR
Patent Number	: 7667681	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/821,932	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **969** 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.

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

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DEC 29 2004

OFFICE OF PETITIONS

In re Application of John Martin, Jennifer St. James Cody and Christopher Shepley Application No. 10/821,949 Filed: April 12, 2004 Attorney Docket No. 250727US8 Title: ELECTRONIC DISCOVERY APPARATUS, SYSTEM, METHOD, AND ELECTRONICALLY STORED COMPUTER PROGRAM PRODUCT	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47," filed October 20, 2004.

The petition is **GRANTED**.

The above-identified application was filed on April 12, 2004, without an executed oath or declaration. In an accompanying application data sheet, John Martin, Jennifer St. James Cody and Christopher Shepley were named as joint inventors. Accordingly, on June 22, 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. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition (and fee); the late surcharge; and a declaration executed by joint inventors Cody and Shepley on behalf of themselves and on behalf of non-signing joint inventor John Martin. This response was made timely by an accompanying petition for extension of time for response within the second month (and fee). Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor John Martin has refused to join in the application.

By declaration of patent attorney Bradley Lytle and declaration of Arthur Blades, President and Manager of the assignee company, rule 47 applicants have set forth the pertinent facts to show that inventor Martin has refused oral and written requests to sign the declaration for patent.

The petition includes the last known address of non-signing inventor Martin.

The declaration filed October 20, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application will be examined in Technology Center AU 2171 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN MARTIN
17100 PALOMA CIRCLE
ROUND HILL, VA 20141

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DEC 29 2004

OFFICE OF PETITIONS

In re Application of :
John Martin, Jennifer St. James Cody :
and Christopher Shepley : LETTER
Application No. 10/821,949 :
Filed: April 12, 2004 :
Attorney Docket No. 250727US8 :
Title: ELECTRONIC DISCOVERY :
APPARATUS, SYSTEM, METHOD, AND :
ELECTRONICALLY STORED COMPUTER :
PROGRAM PRODUCT :

Dear Mr. Martin:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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ALEXANDRIA, VA 22314

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APR 17 2006
OFFICE OF PETITIONS

In re Application of :
Yutaka Toji, et al. :
Application No. 10/821,950 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No.: 251327US3X :

This is a decision on the petition, filed April 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3753 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,961	04/12/2004	Mieko Matsuda	251577US2RD	2367

22850 7590 04/21/2008

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

EXAMINER	
GOODEN JR, BARRY J	

ART UNIT	PAPER NUMBER
3616	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	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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FROM DIRECTORS OFFICE

APR 16 2008

TECHNOLOGY CENTER 3600

James Love
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

April 16, 2008

In re Application of:
Mieko MATSUDA, et al.
Application No. 10/821,961
Filed: April 12, 2004
Attorney Docket No. 251577US2RD

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the petition filed on November 21, 2007 under 37 CFR 1.181(a)(3) requesting the Commissioner to invoke his supervisory authority to require the Examiner to consider the prior art cited in the Information Disclosure Statement filed on October 30, 2007.

A review of the record reveals that Applicant filed an Information Disclosure Statement on October 30, 2007. The examiner indicated in the communication mailed November 19, 2007 that the Information Disclosure Statement failed to comply with 37 CFR 1.98 (3).

However, since the filing of the petition, the examiner did give consideration to the Information Disclosure Statement on February 14, 2008.

Therefore, since Applicant's requested relief has been granted, and the petition is **DISMISSED as being moot.**

Telephone inquiries should be directed to Christopher Ellis, Supervisory Patent Examiner, at (571) 272-6914.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

Pd/snm:4/16/08

SM

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SHOOK, HARDY & BACON L.L.P.
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

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NOV 3 0 2004

OFFICE OF PETITIONS

In re Application of
Watson, et al.
Application No.: 10/821,969
Filed: April 12, 2004
Attorney Docket No.: MFCP.110967
For: SYSTEM AND METHOD FOR PROVIDING AN INTERACTIVE DISPLAY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 25, 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 April 12, 2004 without an executed oath or declaration. Accordingly, on June 23, 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 October 25, 2004, a petition for a two month extension of time and required fee, a declaration executed by 5 of 6 joint inventors, and the surcharge were filed. A statement of facts of Attorney Kerry H. Owens accompanies the petition. Attorney Owens explains that the non-signing joint inventor, Robert Girling, received a copy of the application, declaration, and assignment for the above-identified application and Mr. Girling refused to sign the declaration for the patent application on September 23, 2004 via e-mail.

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. It is noted that the first named inventor has changed her name from Marieke Iwema to Marieke Iwema Watson on her copy of the declaration. Unfortunately, the other signing inventors signed a declaration listing Marieke Iwema as the first named inventor.

All signing inventors must execute another declaration that lists the correct name for the first named inventor - Marieke Iwema Watson - and lists all information for all inventors.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KANSAS CITY MO 64108-2613

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
Watson, et al.
Application No.: 10/821,969
Filed: April 12, 2004
Attorney Docket No.: MFCP.110967
For: SYSTEM AND METHOD FOR PROVIDING AN INTERACTIVE DISPLAY

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed July 5, 2005 (certificate of mailing date June 30, 2005).

The petition is **GRANTED**.

The above-identified application was filed on April 12, 2004 without an executed oath or declaration. Accordingly, on June 23, 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 October 25, 2004, a petition for a two month extension of time and required fee, a declaration executed by 5 of 6 joint inventors, and the surcharge were filed. A statement of facts of Attorney Kerry H. Owens accompanied the petition. Attorney Owens explains that the non-signing joint inventor, Robert Girling, received a copy of the application, declaration, and assignment for the above-identified application and Mr. Girling refused to sign the declaration for the patent application on September 23, 2004 via e-mail.

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 was dismissed on November 30, 2004 for failure to submit a proper declaration executed by the available joint inventors.

The instant reconsideration petition and request for 5 month extension of time with required fee was timely filed on July 5, 2005 (certificate of mailing date June 30, 2005). Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. 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 Technology Center G.A.U. 2173 for examination in due course.

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
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Robert J. Schneider
Chapman & Cutler
111 West Monroe Street
Chicago IL 60603

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FEB 0 2 2007

OFFICE OF PETITIONS

Applicant: Ruan
Appl. No.: 10/821,987
Filing Date: April 12, 2004
Title: HAND LEVER FOR A BINDING MACHINE
Pub. No.: US 2005/0211959 A1
Pub. Date: September 29, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on February 8, 2006 and supplemented on October 13, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the patent application publication does not include the drawings filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on February 8, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

---

[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).

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

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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11-10-09

Patent No. : 7,374,152 B2
Ser. No. : 10/821,987
Inventor(s) : Bu Qin Ruan
Issued : May 20, 2008

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

A certificate of correction will issue to correct the remaining error noted in your request

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Berman & Song
P.O. Box 400198
Cambridge, M
A 02140

ej

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FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55402-1022

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of
Hiroko ABE, et al
Application No. 10/822,005
Filed: April 12, 2004
Attorney Docket No. 12732-230001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 14, 2007.

The request is **APPROVED**.

A review of the file record indicates that Babak Akhlaghi: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Babak Akhlaghi has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Bates, Mark C.	:	
Application No. 10/822,037	:	DECISION ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. 012212-0002-999	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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.

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 $525.00 extension of time fee submitted with the petition on November 10, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The 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.

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

This matter is being referred to Technology Center 3763 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

JONES DAY
12265 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

COPY MAILED

OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Schneider and Miller :
Application No. 10/822,076 : DECISION GRANTING PETITION
Filed: April 9, 2004 :
Attorney Docket No. 964-020254 :

This is a decision on the petition filed July 7, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of April 9, 2004, rather than the presently accorded filing date of April 8, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on April 9, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail label from the United States Postal Service showing that Express Mail package EV328105123US was deposited with the United States Postal Service, Express Mail Service on April 9, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on April 9, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is April 9, 2004.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 9, 2004, and for issuance of a corrected filing receipt.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/07

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: 7147650

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

A. T. Nguyen
SPE

3731
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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STEPHEN E FELDMAN PC
12 EAST 41ST STREET
NEW YORK NY 10017

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Rissin, et al. :
Application No. 10/822,085 : ON PETITION
Filed: April 9, 2004 :
Title: Flexible Material Clutch for :
a Decorative Piece

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed April 24, 2006.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed September 28, 2005, which set a shortened statutory period for reply of three (3) months. Applicants obtained a one month extension of time on January 9, 2006. However, no reply was filed. Accordingly, no reply having received, the application became abandoned on January 29, 2006. A Notice of Abandonment was mailed on April 12, 2006.

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

The matter is being forwarded to Group Art Unit 3677 for consideration of the Amendment filed April 24, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Eric R. Blomiley	: DECISION ON REQUEST FOR
Patent Number	: 7585371	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **306** 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
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Warren M. Farnworth et al :
Application No. 10/822,113 : ON PETITION
Filed: April 8, 2004 :
Attorney Docket No. 6047-68313 :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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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MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
HAYASHI, KATSUNORI :
Application No. 10/822,116 : DECISION ON PETITION
Filed: April 8, 2004 : TO MAKE SPECIAL
For: **DISK ARRAY APPARATUS AND POWER BACKUP METHOD FOR THE SAME** :

This is a decision on the petition filed May 31, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOCKE LIDDELL & SAPP LLP
ATTN: IP DOCKETING
600 TRAVIS, SUITE 3400 CHASE TOWER
HOUSTON, TX 77002-3095

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of
AKKERMAN, et al.
Application No. 10/822,117
Filed: April 9, 2004
Attorney Docket No. 018219/00002

DECISION ON PETITION

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

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,500. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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 Monica A. Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOCKE LORD BISSELL & LIDDELL LLP
ATTN: IP DOCKETING
600 TRAVIS, SUITE 3400
HOUSTON TX 77002-3095

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of :
AKKERMAN, et al. :
Application No. 10/822,117 :
Filed: April 9, 2004 :
Attorney Docket No. **018219-00002** :

DECISION ON PETITION

This is a decision in response to the petition, filed December 20, 2006, under 37 CFR 1.137(b), and the supplement filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 11, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 2855 for consideration of the amendment filed May 14, 2007

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

In re Application of :
Pankaj Dhingra :
Application No. 10/882,122 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 302851.01 :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 10, 2009.

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

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

The above application became abandoned for failure to timely file a reply to the non-final Office action mailed June 30, 2008. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136 were obtained. No reply having been received, the application became abandoned on October 1, 2008. The Office mailed a Notice of Abandonment on June 23, 2009.

With the instant petition, petitioner points out that the Examiner mailed a interview summary on December 15, 2008, in which the Examiner indicated that the June 30, 2008 Office action is withdrawn, and a new non-final Office action would be sent. Accordingly, petitioner argues that the application should not be abandoned. Petitioner's argument

has been considered, but is not persuasive. First, the June 30, 2008 Office action was never officially vacated. Secondly, when the six month statutory deadline approached on December 30, 2008, and no new non-final Office action had been mailed, it was incumbent on petitioner to file a reply to the June 30, 2008 Office action.

Petitioner may wish to consider reviving the application pursuant to 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l), currently $270 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

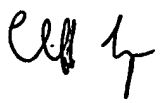
A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $810 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 27, 2009

TO SPE OF : ART UNIT 2614 - SPE Vivian C. Chin.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822,127 Patent No.: 7,474,746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: The scope of the claims have been changed.

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No.: 7,474,746 B2
Applicant : Judah S. Berkowitz, et al.
Issued : January 6, 2009
For : **MULTI-USER TELEPHONE SYSTEM**

Re: Request for Certificate of Correction

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

The requested changes in the claims cannot be entered. The scope of the claims will be affected with the entry of the requested errors.

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

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

ANDREW L. NEY
Barley Snyder LLC
1000 Westlakes Drive
Suite 275
Berwyn PA 19312

AJ

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

Patent No.: 7,474,746 B2
Applicant : Judah S. Berkowitz, et al.
Issued : January 6, 2009
For : **MULTI-USER TELEPHONE SYSTEM**

Re: Request for Reconsideration of Refusal to Enter Request for Certificate of Correction

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

Respecting the alleged errors in claims to change "switching network" to read "network switch". The proposed changes to the claims change the scope of the claims and any mistake affecting claim scope must be corrected by reissue (see MPEP 1481).

In view of the foregoing, your request in this matter is again denied.

Further correspondence concerning this matter should be filed and directed to:

U.S. Department of Commerce
Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Corrections Branch

For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

ANDREW L. NEY
Barley Snyder LLC
1000 Westlakes Drive
Suite 275
Berwyn PA 19312

AJ

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 3, 2010

TO SPE OF : ART UNIT 2600 - SPE Fan Tsang.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822,127 Patent No.: 7,474,746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change in the claim 1 be approved? The applicant is requesting reconsideration of refusal to enter request for cofc".

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: The proposed claims change the scope of the claims and any mistake affecting claim scope must be corrected by reissue. (see MPEP 1481).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Fan Tsang/ SPE of Art Unit 2614

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 15, 2010

TO SPE OF : ART UNIT 2600 - SPE Fan Tsang.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822,127 Patent No.: 7,474,746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change in the claim 1 be approved? The applicant is requesting a second reconsideration of refusal to enter request for cofc".

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: Examiner Tsang approved the CC dated 12/14/209. Applicant's attorney argued in phone and examiner agreed that the changes do not change the metes and bounds of the claims. The CC just corrects some minor clerical mistakes caused by the applicant.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Fan Tsang/ SPE of AU2614

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DON W. WEBER
235 BRISTOL
TROY IL 62294

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown, Kevin L.	:	DECISION ON PETITION
Application No. 10/822,136	:	TO WITHDRAW
Filed: April 9, 2004	:	FROM RECORD
Attorney Docket No. 362	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.§ 1.36(b), filed November 4, 2005.

The request is **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 Don W. Weber, the sole attorney of record.

Don W. Weber has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kevin L. Brown at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed October 17, 2005.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

KEVIN L. BROWN
8 ST. JOSEPH DRIVE
LEBANON, IL 62254

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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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SEP 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Kuroda :
Application No. 10/822,147 : DECISION
Filed: 12 April, 2004 :
Attorney Docket No. 4105-30 :
:

This is a decision on the petition, filed 18 June, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

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[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513).

Petitioner seeks to provide the documentation in compliance with the Commentary at MPEP §711.03(c)(A) and/or (B) as it is set forth on the website (and included for reference herein).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly following his submission of a Notice of Appeal (with fee) on 13 November, 2007, with a reply due absent extension of time on or before Monday, 14 January, 2008.

The application went abandoned by operation of law after midnight 13 January, 2008.

The Office mailed the Notice of Abandonment on 13 June, 2008.

On 13 June, 2008, Petitioner filed a reply in the form of a request for continued examination (RCE) with fee, a submission under 37 C.F.R. §1.114, and request and fee for extension of time.

On 18 June, 2008, Petitioner filed the petition requesting withdrawal of the holding of

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When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f). Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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abandonment under 37 C.F.R. §1.181 averring timely filing supported with a copy of the dated ("JUN 13 2008") receipt card and a copy of the RCE, submission, and request and fee for extension of time, all of which are visible in the instant file.

Petitioner's showing appears to comply with the guidance in the Commentary at MPEP §711.03(c).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 13 June, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2627 for further processing in due course.

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

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

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[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

PATTON BOGGS LLP
2550 M STREET NW
WASHINGTON DC 20037-1350

In re Application of :
John Hevesi et al :
Application No. 10/822,159 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 22306.0101PTUS :

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 29, 2006, which set a shortened statutory period for reply of three (3) months. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 30, 2006. A Notice of Abandonment was mailed on January 29, 2007, 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 required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of June 29, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3617 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-12-09

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822173 Patent No.: 7439335

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Eileen B. O'Hara — SPE
1644 — Art Unit

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Paper No.

EXXONMOBILE CHEMICAL COMPANY
PO BOX 21495200 BAYWAY DRIVE
BAYTOWN, TX 77522-2149

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NOV 0 4 2004

OFFICE OF PETITIONS

In re Application of:	:	
Jean-Marc Francois	:	
Application No. 10/822,188	:	DECISION DISMISSING
Filed: April 6, 2004	:	PETITION UNDER
Attorney Docket No.: 2002B098/2	:	37 CFR 1.47(b)

This is in response to the Declaration and Petition of Facts in Support of Filing on Behalf of Inventor who Refuses to Sign or Cannot be Reached (37 CGR 1.47(b)), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

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

The above-identified application was filed on April 6, 2004, without an oath or declaration. Applicant files the instant petition and declaration to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. In support of the petition, Applicant declares, in relevant part, that the invention was invented and made under the direction of ExxonMobile within the conduct of his employment, and that the inventor was under an obligation to assign the invention to ExxonMobile. This Applicant avers, demonstrates ExxonMobile's vested proprietary

interest in the invention. *Petition* at p.1. Applicant further declares that the application was sent to the inventor at his last known address and that the result was that either the inventor refused delivery, or the inventor has moved. Applicant declares that efforts to locate the inventor are continuing. Applicant files an unexecuted Declaration of the Invention and an unexecuted Assignment of the invention.

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (1), (2), and (5) as set forth above.

Decision

As to item (1), 37 CFR 1.47(b) provides for two separate and distinct circumstances to allow an application to proceed without the signature of the inventor(s). The first is where an inventor refuses to sign an application after having been presented with the application for signature, and the second is where an inventor cannot be found or reached after diligent effort. The situations are separate and distinct and require separate and distinct steps in order to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

In this instance, Applicant avers that either the inventor refuses to join in the application after having been presented with the application, or the whereabouts of the inventor are unknown. Where the whereabouts of the nonsigning inventor are known, what is required is that the application (specification, claims and drawings, along with the oath or declaration for signature) be presented (mailed) to the nonsigning inventor at his or her last known address, before a refusal to join the application can be alleged.

Conversely, where the nonsigning inventor cannot be found or reached after diligent effort, a diligent effort to find or reach the nonsigning inventor is required before an applicant is allowed to proceed with the application. A statement of facts should be submitted that fully describes the exact facts which are relied upon to establish that a diligent effort was made. The statement of facts must be signed by a person with firsthand knowledge of the facts recited therein. Copies of documentary evidence that support a finding that the nonsigning inventor cannot be found or reached should be made part of the statement. At the very least a search of the internet and local telephone directories should be undertaken in an effort to locate the nonsigning inventor. The results of said searches should be included in the petition. *See* MPEP 409.03(d)

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or *the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.* Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). (Emphasis supplied). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be

stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. A properly executed oath or declaration is required.

As to item (5), applicant failed to show or provide proof that ExxonMobile has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

EXXONMOBILE CHEMICAL COMPANY
PO BOX 21495200 BAYWAY DRIVE
BAYTOWN, TX 77522-2149

In re Application of: :
Jean-Marc Francois :
Application No. 10/822,188 : DECISION GRANTING
Filed: April 6, 2004 : PETITION UNDER
Attorney Docket No.: 2002B098/2 : 37 CFR 1.47(b)

This Decision is in response to the Request for Reconsideration of Petition Under 37 CGR 1.47(b), filed January 6, 2005, and supplemented January 13, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Jean-Marc Francois, refuses to join in the application.

As provided in Rule 1.47(b), 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.

The application file is being referred to Technology Center Art Unit 1773 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232

Derek L. Woods
Attorney/Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 3/3/10

DATE : 3/2/2010

TO SPE OF : ART UNIT 1635 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822,205 Patent No.: 7,595,304

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

SPE _____ ART UNIT 1635

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TECHNOLOGY CENTER 3600

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

In re application of
Vernon Hayes Lesher
Application No. 10/822,206
Filed: April 08, 2004
For: ANIMAL FEEDER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 08, 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. Lesher 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: 9/05/04

Practitioner's Docket No. 115838.00112 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert D. Fogal, Sr.

Application No.: Not Yet Assigned 10/822210 Group No.: Not Yet Assigned Cain, Edward 1714
Filed: April 8, 2004 Examiner: Not Yet Assigned
For: TIRE SEALANT COMPOSITION

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

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02 IV)

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is a copy of applicant's driver's license.

No fee is required with this petition, in accordance with 37 C.F.R. § 1.102(c).

Date: April 8, 2004

Robert J. Clark
Signature of Practitioner

Reg. No.: 45,835
Tel. No.: 330-864-5550
Customer No.: 021324

Robert J. Clark
Hahn Loeser & Parks, LLP
Twin Oaks Estate
1225 West Market Street
Akron, OH 44313-7188

PETITION GRANTED

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

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Robin M. Silva, Esq.
Dorsey & Whitney LLP
Intellectual Property Department
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Gregory A. Lazar, et al. :
Application No. 10/822,231 :
Filed: March 26, 2004 :
Attorney Docket No. A-71386-8 :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED**.

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

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

The petition lacks item 1.

This application was filed on March 26, 2004, and was pending at the time of filing of the petition. While a reference to the prior-filed nonprovisional applications were not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §1.78(a)(3) or §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 provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under §37 CFR 1.78(a)(3) or §1.78(a)(6).[1]

In this case, the Office noted the claim for priority of nonprovisional Application Nos. 10/672,280 and 10/379,392 and provisional Application Nos. 60/442,301 and 60/414,433 as shown by their inclusion on the filing receipt. Since the Office did not note the claim for priority to provisional applications 60/467,606 and 60/477,839 a petition under 37 CFR 1.78(a)(6) is necessary to accept an unintentionally delayed claim under 35 U.S.C. § 119(e).

It is noted that the Application Data Sheet accompanying the petition does not recite the correct application number of the prior-filed applications. 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. Therefore, a corrected ADS must be filed before the petition under 37 CFR 1.78(a)(6) can be granted.

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

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

[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.

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

The centralized facsimile number is **(703) 872-9306**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, SUITE 1000
SUITE 1000
SAN FRANCISCO, CA 94104

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APR 12 2006
OFFICE OF PETITIONS

In re Application of :
Gregory A. Lazar, et al. :
Application No. 10/822,231 : DECISION ON PETITION
Filed: March 26, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. A-71386-8 :

This is a decision in response to a renewed petition, filed December 13, 2005, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e). It is noted that the requisite surcharge was paid with the original petition on November 12, 2004. Therefore, the fee submitted with the present petition is unnecessary and is being credited to counsel's deposit account.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the application is entitled to the benefit of the filing date of the prior-filed applications. In order for the application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that a corrected Filing Receipt 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 1644 for appropriate action on the amendment submitted December 13, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

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FEB 17 2005

Ernest D. Buff
Ernest D. Buff & Associates, LLC
231 Somerville Road
Bedminster NJ 07921

In re Application of
Edward Bilenski et al
Serial No.: 10/822,243
Filed: April 9, 2004
For: Single-Use, Self-Contaied Twist Resistant Surgical Knife

DECISION ON PETITION

This is in response to the petition applicant filed on August 23, 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 Esther M. Kepplinger by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Esther M. Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700

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222 EAST 41ST ST
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of
Michael Coyle, Desmond B. Keenan, P. Alexander Derchak, Marvin Sackner, Frank Wilhelm, Keith Gilroy, Emerance M. Gummels, Dana Michael Inman, Paul Kennedy, Mark Mitchnick, and Andrew Behar
Application No. 10/822,260
Filed: April 9, 2004
Attorney Docket No. 0001733USU/3053
Title: SYSTEMS AND METHODS FOR RESPIRATORY EVENT DETECTION

DECISION ON PETITION UNDER C.F.R. §1.47(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed February 4, 2005. A supplement to this petition was submitted on February 10, 2005.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On April 9, 2004, the application was filed, identifying Michael Coyle, Desmond B. Keenan, P. Alexander Derchak, Marvin Sackner, Frank Wilhelm, Keith Gilroy, Emerance M. Gummels, Dana Michael Inman, Paul Kennedy, Mark Mitchnick, and Andrew Behar as joint inventors. The application was deposited without an executed oath or declaration. On July 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration, the associated surcharge, and Figures 14C and 14D were required. This Notice set a two-month period for reply.
Along with the instant petition, Petitioner has submitted a declaration which has been executed by the each of the joint inventors save Mr. Inman, the petition fee, the surcharge, and a statement of facts. With the supplement to this petition, a declaration was submitted which contains the signature of Mr. Inman.

It is noted that the declaration cannot be accepted as it contains non-initialed and non-dated changes by inventors Gilroy and Kennedy[2].

As such, the petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.47(a)," and should be accompanied by an acceptable declaration. This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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2 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The application file will be retained in the Office of Petitions for two (2) months.

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

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

cc: Dwight H. Renfrew, Jr.
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of
Michael Coyle, Desmond B. Keenan, P. Alexander Derchak, Marvin Sackner, Frank Wilhelm, Keith Gilroy, Emerance M. Gummels, Dana Michael Inman, Paul Kennedy, Mark Mitchnick, and Andrew Behar

Application No. 10/822,260
Filed: April 9, 2004
Attorney Docket No. 0001733USU/3053
Title: SYSTEMS AND METHODS FOR RESPIRATORY EVENT DETECTION

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed July 5, 2005. On April 9, 2004, the application was filed, identifying Michael Coyle, Desmond B. Keenan, P. Alexander Derchak, Marvin Sackner, Frank Wilhelm, Keith Gilroy, Emerance M. Gummels, Dana Michael Inman, Paul Kennedy, Mark Mitchnick, and Andrew Behar as joint inventors. The application was deposited without an executed oath or declaration. On July 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice)

[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.

was mailed, indicating that a fully executed oath or declaration, the associated surcharge, and Figures 14C and 14D were required. This Notice set a two-month period for reply.

Along with the original petition, submitted on February 4, 2005, Petitioner submitted a declaration which had been executed by the each of the joint inventors save Mr. Inman, the petition fee, the surcharge, and a statement of facts. On February 10, 2005, Petitioner submitted a declaration which contained the signature of Mr. Inman.

The original petition was dismissed via the mailing of a decision on May 24, 2005, as the declaration submitted on February 4, 2005 contains non-initialed and non-dated changes by inventors Gilroy and Kennedy[2].

With this renewed petition, a declaration has been presented which has been properly executed by inventors Gilroy and Kennedy.

As such, the renewed petition is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

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

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

2 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

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DEC 0 3 2004

TECHNOLOGY CENTER 3600

Ashkan Najafi, P.A.
113 Lamplighter Lane
Pointe Verda, Beach, FL 32082

In re application of : **DECISION ON PETITION**
Raymond W. Pace : **TO MAKE SPECIAL**
Application No. 10/822,262 : **(APPLICANT'S AGE)**
Filed: April 12, 2004 :
For: DRILL BIT CONE PROTECTOR

This is a decision on the petition submitted on April 12, 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 **DISMISSED**.

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 petition states "there is a copy of applicant's birth certificate included," however, there is no such birth certificate. Since there is no evidence showing that the applicant is at least 65 years of age, the age of applicant cannot be determined.

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 outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 11/3/04

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DEC 0 3 2004

TECHNOLOGY CENTER 3600

Ashkan Najafi, P.A.
113 Lamplighter Lane
Pointe Verda, Beach, FL 32082

In re application of
Raymond W. Pace
Application No. 10/822,262
Filed: April 12, 2004
For: DRILL BIT CONE PROTECTOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 12, 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 **DISMISSED**.

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 petition states "there is a copy of applicant's birth certificate included," however, there is no such birth certificate. Since there is no evidence showing that the applicant is at least 65 years of age, the age of applicant cannot be determined.

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 outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

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JUN 2 2005

ASHKAN NAJAFI, P.A.
6817 SOUTHPOINTE PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

In re application of	:	**DECISION ON PETITION**
Raymond W. Pace	:	**TO MAKE SPECIAL**
Application No. 10/822,262	:	**(APPLICANT'S AGE)**
Filed: April 12, 2004	:	
For: DRILL BIT CONE PROTECTOR	:	

This is a decision on the renewed petition submitted on March 28, 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 copy of Mr. Pace's birth certificate 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
(571) 272-6619

RAR/dew: 5/31/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 04/21/2010

Applicant	: Jeffery W. Janzen	: DECISION ON REQUEST FOR
Patent Number	: 7590797	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,275	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **293** 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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JAMES ALFRED WHITE
909 HWY 1204
PINEVILLE LA 71360-2912

MAILED

JUN 0 8 2010

OFFICE OF PETITIONS

In re Application of :
James Alfred White :
Application No. 10/822,276 : DECISION ON PETITION
Filed: April 12, 2004 :
For: SPIRAL SLICE POTATO CUTTER :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed January 16, 2009, is accepted as having been unintentionally delayed.

Additionally, as to a refund of the petition fee, applicant is encouraged to note MPEP 711.03 (c) which states that:

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

In view of the above, the petition fee submitted on April 15, 2010, will not be refunded.

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

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the filing of the Request for Continued Examination (RCE) and amendment.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Teresa Amorin :
Application No. 10/822,281 : DECISION ON PETITIONS
Filed: April 9, 2004 :
Attorney Docket No. 1119309-0005 :
:

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 26, 2007.

The request is **APPROVED**.

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

The request was signed by John M. Genova on behalf of all attorneys of record who are associated with customer No. 07470.

All attorneys/agents associated with the Customer Number 07470 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.
In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a

statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

This is also a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the non-final Office action of May 2, 2007. 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 August 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 a Notice of Appeal; (2) the petition fee of $770; 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). Since the $525 extension of time fee submitted with the petition on November 9, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business on the reply received November 9, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TERESA AMORIN
KINGS COURT #S1, APT 2-A
SAN JUAN, PUERTO RICO 00909

cc: JOHN A. MARTIN, PRESIDENT
PENSION BENEFIT INSURANCE SERVICES, INC.
KNOLL PLCAC
70 SPARTA AVENUE
SUITE 202
SPARTA, NJ 07871

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/822,281	04/09/2004	Teresa Amorin	1119309-0005

CONFIRMATION NO. 2165

POWER OF ATTORNEY NOTICE

7470
WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

OC000000028873859

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/26/2007.

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

/amwise/

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

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AUG 1 1 2006

OFFICE OF PETITIONS

WESLEY W. WHITMYER, JR.
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of :
Andre Lavoie, et al. :
Application No. 10/822,310 : DECISION ON REQUEST
Filed: April 12, 2004 : TO WITHDRAW
Attorney Docket No. 03883-P0022A : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Wesley W. Whitmyer, Jr.

The letter filed September 12, 2005 by David M. Roseblatt is considered to support petitioner's reasons for requesting withdrawal under 37 CFR 10.40(c)(1)(iv) and 37 CFR 10.40(c)(3).

Wesley Whitmeyer, Jr. has been withdrawn as attorney or agent of record; all other attorneys/agents remain of record.

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

until otherwise properly notified by the applicant. A copy of this decision will also be mailed to the address noted on the request.

There is no outstanding Office action that requires a reply from 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

cc: ANDRE LAVOIE
396 BEACON STREET
BOSTON, MA 02116

DAVID M. ROSENBLATT, ESQ.
THE THOMSON CORPORATION
METRO CENTER, ONE STATION PLACE
STAMPFORD, CT 06902

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2401

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Andre Lavoie et al.	:	
Application No. 10/822,310	:	DECISION ON PETITION
Filed: April 12, 2004	:	UNDER 37 C.F.R. 1.78(A)(6)
Attorney Docket No.	:	
028750.0027-US02	:	
Title: FINANCIAL DOCUMENT	:	
CHANGE IDENTIFIER	:	

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6), filed February 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in both the concurrently filed amendment to the specification and the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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

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

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

It is noted in passing that the ADS that was filed with this petition can neither be entered nor made of record, as it has not been signed. Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2176 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

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AT&T CORPORATION
ONE AT&T WAY, ROOM 2A-207
BEDMINSTER, NJ 07921

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
KOUDAS, et al. :
Application No. 10/822,316 :
Filed: April 12, 2004 :
Attorney Docket No. **2002-0387(1014-059)** :

DECISION GRANTING PETITIONS
UNDER 37 CFR 1.137(b) AND
37 CFR 1.313(c)(2)

This is a decision on the petitions, filed April 28, 2008, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue, filed May 28, 2008.

The petitions are **GRANTED.**

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue fee on or before April 14, 2008, as required by the Notice of Allowance and Fee(s) Due mailed January 14, 2008. Accordingly the date of abandonment of this application is April 15, 2008.

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 payment of the issue fee of $1440, (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is

[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.*

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) 272-7253.

This matter is being referred to Technology Center AU 2193 for processing the RCE and for consideration of the Information Disclosure Statement submitted on May 28, 2008.

Monica A. Graves
Petitions Examiner
Office of Petitions

Cc: **MICHAEL HAYNES**
1341 HUNTERFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,539,457
Inventor(s) : Lime et al
Issued : May 26, 2009
Title : METHOD AND APPARATUS FOR COMMUNICATING WITH SEVEN OR MORE TERMINALS EFFICIENTLY IN BLUETOOTH SYSTEM
Docket No. : SEMIRE-PA-US-11

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1572** or (703) 305-8309

OBER/KALER
120 E. BALTIMORE STREET SUITE 800
BALITMORE MD 21202-1643

RMJ

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HOWREY LLP
C/O DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE
SUITE 200
FALLS CHURCH, VA 22042-7195

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SEP 28 2006
OFFICE OF PETITIONS

In re Application of :
Anastasios Palidis :
Application No. 10/822,353 : DECISION GRANTING PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12038.0006.NPUS01 :

This is a decision on the petition, filed September 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The address on the petition differs from the address of record. If appropriate, a change of address should be filed.

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

This matter is being referred to Technology Center AU 3635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\822353.wpd

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

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Toby H. Kusmer
McDERMOTT, WILL & EMERY
28 State Street
Boston, MA 02109

Mail Date: 04/21/2010

Applicant	: Ali Shajii	: DECISION ON REQUEST FOR
Patent Number	: 7628860	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,358	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Shuichi Ohkubo	: DECISION ON REQUEST FOR
Patent Number	: 7636287	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **987** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,385	04/12/2004	Ye Fang	SP04-026	2860

22928 7590 05/12/2008
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

EXAMINER
CHIN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
05/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER
	512008

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In re application of Fang et al.
Serial No. : 10822385
Filed: 4/12/04

DECISION ON PETITION

This is in response to applicants' petition, filed on 1/22/08 under 37 CFR 1.84(a), to accept color photographs.

Applicant has fulfilled all requirements of 37 CFR 1.84(a).

Applicants' petition is GRANTED.

Larry R. Helms
Supervisory Patent Examiner
Art Unit 1643
/Larry R. Helms/

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-23-05

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6828924

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.

Can this be Approved

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.

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

Comments:

SPE 12817

2814
Art Unit

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H. G. Bruss, Esq., 25-LDP
Owens-Illinois, Inc.
One SeaGate
Toledo OH 43666

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Gerber :
Application No. 10/822,412 :
Filed: April 12, 2004 :
Attorney Docket No. 17764-01 :
For: METHOD AND APPARATUS FOR CENTERING A GLASS FLOW CONTROL TUBE

ON PETITION

This is a decision on the petition filed August 9, 2004 (certificate of mailing date August 5, 2004), requesting, in effect, withdrawal of a Notice mailed July 30, 2004. The petition will be treated under 37 CFR 1.82.

The application was filed on April 12, 2004. However, on July 30, 2004, The Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of April 12, 2004, and advising applicant that figures 3A, 4, and 5 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner has provided replacement sheets of the drawings missing and states that the drawings should be included with the papers filed on April 12, 2004 because they were originally filed in prior application No. 10/161,231, the entire disclosure of which was incorporated by reference into the present application at the time of its filing.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing drawings were actually deposited in the PTO on April 12, 2004 with the other application papers nor requests a later filing date.

Instead, applicant seeks to add the figures to the present application as replacement figures on the basis that they are not new matter. However, no petition is necessary for that purpose. Additional

figures may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicants desire that figures 3A, 4, and 5 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal. A $130.00 Petition to Commissioner fee will be charged to deposit account no. 50-0852.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 12, 2004. Replacement figures 3A, 4, and 5 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

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Paper No. 020105

LAW OFFICES OF PARK & ASSOCIATES
3600 WILSHIRE BLVD., SUITE 1722
LOS ANGELES, CA 90010

FEB 23 2005

In re Application of:
DONG WOO GIM et al.
Serial No.: 10/822,414
Filed: April 12, 2004
Attorney Docket No.: **1802.04**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 05, 2005.

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

The request meets all the above stated requirements. The request was signed by George W. Luckhart, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

The law firm of Parks and Associates remains of record at this time.

All future communications from the Office will continue to be directed to Parks and Associates, at the below address, until otherwise notified by applicant.

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

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

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

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OCT 1 4 2004

OFFICE OF PETITIONS

LETTER

In re Application of
Bulent M. Basol, et al.
Application No. 10/822,424
Filed: April 12, 2004
Attorney Docket No. ASMNUT.000GEN

This is in response to the paper filed August 30, 2004, which is being treated as a request under 37 CFR 1.27(g)(2) to remove status as a Small Entity.

Status as a Small Entity has been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This application is being referred to Office of Initial Patent Examination (OIPE) for consideration of the reply to the Notice to File Missing Parts of Nonprovisional Application mailed June 23, 2004.

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

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

Mail Date: 04/21/2010

Applicant	: Jeffrey Duncan Watters	: DECISION ON REQUEST FOR
Patent Number	: 7641209	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **781** 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 : 6/4/06

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822469 Patent No.: 7003971

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 115

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 limitations from claim 8 were included in claim 1 in the Notice of Allowance dated 10/31/05. Thus, the deletion of claim 8 and the dependency changes for claims 9 & 10 are proper

SPE

3744
Art Unit

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11/3/05

wak

In re Application of :
Richard G. Kleker :
Serial Number: 10/822,461 : DECISION
Filed: April 12, 2004 : ON
For: Apparatus for Processing Garments In A Water And Air System : PETITION

This is in response to the request filed January 31, 2005, requesting permission for withdrawal as attorney from the above-identified application.

Applicant has revoked the power of attorney and granted a new power attorney on July 5, 2005.

The Request is **Dismissed**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Craig A. Gelfound
McDermott Will & Emery LLP
2049 Century Park East, 34th Floor
Los Angeles, CA 90067

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Paper No: __

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OFFICE OF PETITIONS

RONALD ROHDE
20 DESCANSO DRIVE, SUITE 1215
SAN JOSE CA 95134

In re Application of :
Kleker :
Application No. 10/822,461 : ON PETITION
Filed: 12 April, 2004 :
Attorney Docket No. RK002PA :

This is a decision on a petition filed on 21 November, 2005, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the non-final rejection mailed on 8 November, 2004, with reply due absent an extension of time on or before 8 February, 2005;
- the application went abandoned by operation of law after midnight 8 February, 2005;
- the Office mailed the Notice of Abandonment on 30 June, 2005;
- Petitioner filed the instant petition on 21 November, 2005–but the petition form carried an incorrect application number[1] and so was not addressed until this writing–with fee, reply in the form of an amendment and made the statement of unintentional delay, and also included are a terminal disclaimer (with fee) as required by the Examiner–thus,

[1] The petition form carried Application No. 10/822,641, rather than the appropriate Application No. 10/822,461.

Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

---

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

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

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

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

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

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

The record (including the petition filed on 21 November, 2005) does not necessitate a finding that the delay between midnight 8 February, 2005 (date of abandonment), and 21 November, 2005 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner (Richard G. Kleker) and Counsel (Ronald Rohde) (Reg. No. 45,050) when accepting Petitioners' representation that the delay in filing the response was unintentional.[8] The terminal disclaimer filed on 21 Novembe,r 2005, under 37 C.F.R. §1.137(d) has been entered and made of record.[9]

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Technology Center 1700 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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[8] 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).

[9] The regulations at 37 C.F.R. §1.137(d)(1) state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States, or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121 or 365(c), from the date on which the earliest such application was filed. Effective 20 September, 2000 (65 Fed. Reg. 54674, 8 September, 2000).

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CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of
Joseph J. Kubler et al.
Application No. 10/822,462
Filed: April 12, 2004
Attorney Docket No. 14364US21
Title: HIERARCHICAL DATA COLLECTION NETWORK SUPPORTING PACKETIZED VOICE COMMUNICATIONS AMONG WIRELESS TERMINALS AND TELEPHONES

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed October 4, 2004, requesting that the above-identified application be accorded a filing date of April 12, 2004, with Page 122 of the specification as part of the original disclosure of the application.

The application was deposited on April 12, 2004. However, on August 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Paper(s) – 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 Page 122 of the specification. The notice further indicated that a substitute specification and replacement drawings would be required. The notice set a two-month period for response.

On October 4, 2004, the instant petition was filed, along with Page 122 of the specification, a copy of the notice, replacement drawings, and a substitute specification.

Petitioner has not contended that this page was present on filing. While it appears that this page was omitted 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 10/141,506, 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 April 12, 2004. However, page 122 of the specification submitted with the instant petition will not be entered.

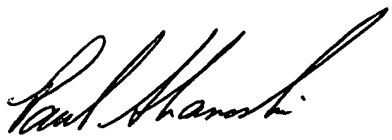
If Petitioner desires for the missing page to be included, he should submit this page via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior 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 April 12, 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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OFFICE OF PETITIONS

In re Application of :
Kenneth W. McLean et al. :
Application No. 10/822,465 :
Filed: April 12, 2004 :
Attorney Docket No.: :
15164 :
Title: INDEPENDENT HYDRAULIC :
HEADER LIFT AND FLOTATION SYSTEM :

DECISION ON PETITION

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application, including pages 2 and 5 of the specification, be accorded a filing date of April 12, 2004 as part of the original disclosure.

The application was deposited on April 12, 2004. However, on August 11, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that pages 2 and 5 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on October 12, 2004, applicants filed the present petition. The petition is further accompanied by a copy of pages 2 and 5 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "Specification (13 Pages)" in the United States Patent and Trademark Office (Office) on April 12, 2004. Applicants request that pages 2 and 5 of the specification be accorded a filing date of April 12, 2004.

It is noted that 5 pages of specification, 5 pages of claims, and a 1 page abstract have been located in the electronic file.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 12, 2004

included pages 2 and 5 of the specification, and these sheets were subsequently misplaced in the Office.

Therefore, the application, including pages 2 and 5 of the specification, was complete on filing and entitled to a filing date of April 12, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed August 11, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the $130.00 petition fee will be refunded to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of April 12, 2004, using the original application papers filed on that date, as well as pages 2 and 5 of the specification submitted on April 12, 2004, and for noting in Office records that these 2 sheets were present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

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OFFICE OF PETITIONS

Mark W. Sincell
Williams, Morgan & Amerson, P. C.
Suite 1100
10333 Richmond
Houston, TX 77042

In re Application of :
Jung A. Lee :
Application No. 10/822,478 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 2100.004600 :

This is a decision on the petition filed July 12, 2004 requesting that the above-identified application be amended to include drawings containing Figures 6-10B and to retain its filing date of April 12,2004.

The petition is dismissed.

Should petitioners wish to accept the July 12, 2004, filing date with an indication that Figures 1-10B were present in filing, they must promptly, *i.e.*, within TWO (2) MONTHS, pursuant to 37 CFR 1.181(g), renew this petition before the Director of the Office of Initial Patent Examination, and so state their desire.

The application was filed on April 12, 2004. However, on June 23, 2004,the Office mailed a "Notice of Omitted Items" stating that the application had been accorded a filing date of April 12, 2004,and advising applicant that the drawings of Figures 6-10B described in the specification appeared to have been omitted.

In response, the present petition was filed requesting, in effect, that the application be amended to include the drawings of Figure 6-10B described in the specification, and the application retain is current filing date. Petitioner asserts that as the specification fully describes the subject matter of these drawings there is no question of the prohibited introduction of new matter.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted

drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing drawings were deposited on April 12, 2004, nor requests the July 12, 2004, (the date the drawings were supplied) filing date. Clearly, Figures 6-10B were intended to be a part of the application. The question of new matter is not an issue here. Figures 6-10B were not present in the application file on April 12, 2004, the date of deposit of the application. Therefore, the application cannot be accorded that date as the filing date with the drawing of Figures 6-10B as a part of the original disclosure. Figures 6-10B were simply not filed in the PTO on that date. Accordingly, petitioner cannot retain the April 12, 2004 filing date with an indication that Figures 6-10B were present on filing.

Instead, applicants may seek to amend the application to include the drawings. However, no petition under 37 CFR 1.182 is necessary for that purpose. The primary examiner without petition may enter new drawings so long as those drawings contain no new matter. See MPEP § 608.02(a). However, that is an issue to be raised before the examiner during the course of the examination of this application and as such will not be further considered as a filing date matter.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of April 12, 2004, including an indication in Office records that eight sheets of drawings containing Figures 1-5 were present on filing.

Thereafter, the application will be referred to the appropriate group art unit for consideration by the examiner of the petition filed June 12, 2004, as an amendment requesting the entry of new sheets of drawings containing Figures 6-10B.

The petition fee is due on filing the petition regardless of the outcome.

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

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

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CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 07/23/2010

Applicant	: Joseph M. Asher	: DECISION ON REQUEST FOR
Patent Number	: 7641549	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/822,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Alexander William Hyndman	: DECISION ON REQUEST FOR
Patent Number	: 7569137	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,507	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **607** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOSE MCKINNEY & EVANS LLP
135 N PENNSYLVANIA ST
SUITE 2700
INDIANAPOLIS IN 46204

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Wildman, et al.	:	
Application No. 10/822,525	:	DECISION REFUSING STATUS
Filed: April 12, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 8266-1265	:	
Title: Article Locating and Tracking Apparatus and Method	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 1, 2004.

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

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

The above-identified application was filed on April 12, 2004, without an executed oath or declaration. Accordingly, on June 23, 2004, the Initial Patent Examination Division mailed applicant a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated October 25, 2004.[1] Accompanying the petition was a copy of an e-mail correspondence to support the proposition that diligent effort had been undertaken to locate inventor Fleck. The e-mail stated that unreturned calls had been placed to Fleck's parents' house. In addition, one letter sent to Fleck's last known address was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

Here, applicant has not demonstrated diligent effort in finding the non-signing inventor. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[2] Applicant has provided no documentary evidence, such as a certified mail return receipt or copies of an internet search, to support such a finding[3]. In fact, a perfunctory internet search by the undersigned has revealed two different addresses for a Thomas M. Fleck in the state of Indiana.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] October 23rd and 24th fell on a Saturday and Sunday respectively. See 37 CFR 1.7(a)

[2] MPEP 409.03(d) (emphasis added).

[3] Such documentary evidence should be made part of the affidavit or declaration. See id.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-31-06

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822530 Patent No.: 6968911

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.

Drawings / claims . thanks.

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 BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of :
Burr, William J. :
Application No. 10/822,532 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 31432-52154 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 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 October 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 1, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to 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
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6910666	2005-06-28	10822532	2004-04-12	S&WADJLEVELINGMOUNT

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	/lie/	Date (YYYY-MM-DD)	2009-08-14
Name	Leon I. Edelson	Registration Number	38863

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6910666
Issue Date: June 28,2005
Application No. 10822532
Filed: April 12,2004
Attorney Docket No. 31434-52154

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

This is a decision on the electronic petition, filed August 14,2009 ,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 August 14,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 22, 2007

Patent No. : 7193696 B2
Inventor(s) : Engelbart, et al.
Issued : Mar. 20, 2007
Title : **SYSTEMS AND METHODS FOR USING LIGHT TO INDICATE DEFECT LOCATIONS ON A COMPOSITE STRUCTURE**
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Harness Dickey & Pierce/MDE
P.O. Box 828
Bloomfield Hills, MI 48303

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Patent No. 7,193,696 :
Application No. 10/822,538 :
Filed: April 12, 2004 : ON PETITION
Issued: March 20, 2007 :
Attorney Docket No. 7784-000696/US :

This is a decision on the petition filed August 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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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RICHARD C. STEMPKOVSKI, JR.
NAWROCKI, ROONEY & SIVERTSON, P.A.
BROADWAY PLACE EAST, SUITE 401
3433 BROADWAY STREET NORTHEAST
MINNEAPOLIS MN 55413

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Mark J. Whalen et al :
Application No. 10/822,546 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 25064/104/102 :

This is a decision on the paper filed October 1, 2004, which is being treated as a petition under 37 CFR 1.53.

The petition is **Dismissed**.

The application was deposited on April 12, 2004. However, on July 29, 2004, the Office of Initial Patent Examination Division mailed a "Notice To File Missing Parts Of Nonprovisional Application," stating that Figures 5-7 were omitted from the application on filing.

In response, on October 1, 2004, the instant petition and seven (7) sheets of formal drawings were submitted as described in the specification. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of nine (9) sheets of drawings on April 12, 2004. A review of the application file indicates the presence of only six (6) sheets of drawings with the sheets containing Figures 5-5A, 6, 6A-6C and 7 missing.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

However, since the drawings cannot be located in the Office, petitioner is prevailed upon to submit a copy of the original drawings submitted on April 12, 2004 to include Figures 5-5A, 6, 6A-6C and 7. The Office recognizes the seven (7) sheets of drawings submitted with the instant petition on October 1, 2004. A copy of the original drawings submitted on April 12, 2004, is needed to be placed in the application file and for the Office to compare with the drawings submitted on October 1, 2004.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Christina T. Donnell

Christina Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Brad Pedersen
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis MN 55402-2100

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
Seghatol et al. :
Application No. 10/822,548 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 1550.36US03 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 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 within the time period provided in 37 CFR 41.37(a)(1). In reply to the final Office action mailed October 31, 2007, a Notice of Appeal was filed February 27, 2008 with a one month extension of time under the provisions of 37 CFR 1.136(a). On May 27, 2008, an appeal brief transmittal letter and an appeal brief fee were filed. Also, a one month extension of time was obtained under the provisions of 37 CFR 1.136(a). However, this May 27, 2008 filing did not include an appeal brief. Accordingly, 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 May 28, 2008. *See* MPEP 1215.04. A communication indicating this status was mailed from the Office on October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

In addition, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the appeal brief submitted with the petition filed October 6, 2008.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Thomas F. Woods
P.O. Box 2528
Lyons, CO 80540

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Pressley et al. : DECISION ON PETITION
Application No. 10/822,550 :
Filed: April 12, 2004 :
Atty Docket No. 12077US06 :

This is a decision on the PETITION AND RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION, filed August 1, 2005, requesting that the above-identified application be amended to include a drawing containing Figure 6[1].

Application papers in the above-identified application were deposited on April 12, 2004. However, on June 1, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Items in a Nonprovisional Application," notifying

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[1] Petitioner is advised that effective September 21, 2004, (to apply to applications filed on or after September 21, 2004) 37 C.F.R. § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier; …

applicants that the application papers had been accorded a filing date of April 12, 2004; however, figure 6 described in the specification appeared to have been omitted.

In response, the present petition was timely filed requesting, in effect, that the application be amended to include the drawing of Figure 6 described in the specification.

The petition is **dismissed**.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawing figure was deposited on April 12, 2004, nor request the August 1, 2005 (the date the drawing was supplied) filing date.

Instead, applicants seek to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded as the petition was not necessary to correct any error on the part of the Office.

It is noted that the application transmittal letter identified this application as a continuation of prior application No. 09/763,676 and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> … an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figure 6 is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 12, 2004, including an indication in Office records that 5 sheets of drawings were present on filing.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed August 1, 2005, as an amendment requesting entry of a new drawing sheet.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of	:	
Giustino et al.	:	DECISION NOTING JOINDER
Application No. 10/822,551	:	OF INVENTOR AND PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.47(a) MOOT
Atty Docket No. 18894/04893	:	

This is a decision on the "PETITION PURSUANT TO 37 C.F.R. § 1.47(a) …," filed December 23, 2004. This decision is made in light of the "SECOND RESPONSE TO NOTICE TO FILE MISSING PARTS" filed April 15, 2005.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on April 12, 2004, with a declaration executed by inventors Giustino, Goslar, Liu and Becherer, but without the signature of inventor Bichler. In reply to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" mailed June 23, 2004, applicants timely filed the initial petition under § 1.47(a) (and $200 petition fee) for acceptance of the declaration without the signature of inventor Bichler (along with the filing fees required in response to the Notice)[1].

[1] This response was made timely by an accompanying petition (and fee) for extension of time for response within the fourth month. Applicants thereby avoided abandonment of this application.

Prior to a decision being rendered on the petition, applicants filed a second response including a declaration executed by inventor Bichler. The declarations have been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application will be examined in Technology Center AU 2855 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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SEP 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Thunder Jalili :
Application No. 10/822,568 : DECISION ON PETITION
Filed: April 12, 2004 : TO WITHDRAW
Attorney Docket No. 0274-5928.1US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed July 19, 2007.

The request is **APPROVED**.

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

The request was signed by Allen C. Turner on behalf of all attorneys associated with customer number 24247. All attorneys/agents associated with customer number 24247 have been withdrawn.

There are no outstanding office actions 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 inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Thunder Jalili
1379 Settlement Drive
Park City, UT 84098

cc: Needle & Rosenberg
999 Peachtree Street
Suite 1000
Atlanta, GA 30309

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/09

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 10822580 Patent No.: 7316666

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
[redacted]

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

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Comments: The corrections not approved are the corrections to the title pages. With respect to Title Page 1 and replacing "392/466" with "219/299", it is not approved because "392/466" is the updated classification where the patent is currently classified. "219/299" is the old out-dated classification. With respect to adding "Europe 82109154.3 10/1982" under the heading "Foreign Patent Documents" it is not approved because this reference was not considered by the examiner (reference crossed-thru in 1449 mailed 2/22/2006) because a copy was not submitted by Applicant and is not located within the

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

application file.

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Kevin C. Simmons 3767

SPE 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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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

MAR 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Burgmeier et al	:	
Application No. 10/822,581	:	DECISION GRANTING PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S63.2-10865-US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 10, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 04/21/2010

Applicant	: Robert Burgmeier	: DECISION ON REQUEST FOR
Patent Number	: 7659000	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,581	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **229** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,583	04/12/2004	Richard Hutchison	ITW 7247.63	2647

23721 7590 05/11/2005

CORRIGAN LAW OFFICE
5 BRIARCLIFF CT
APPLETON, WI 54915

EXAMINER	
SHAW, CLIFFORD C	

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 05/11/2005

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
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5/10/05

In re Application of	:	
Richard Hutchison, et al.	:	
Serial Number : 10/822,583	:	WITHDRAWAL
Filed : April 12, 2004	:	FROM
For : **METHOD AND APPARTUS**	:	ISSUE
FOR WELDING	:	

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

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

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action. Telephone inquiries may be directed to Tom Dunn at 571-272-1171.

JMstone

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

CORRIGAN LAW OFFICE
5 Briarcliff Court
Appleton, WI 54915

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/24/08

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822591 Patent No: 7374890 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: _____

[signature]
SPE

1646
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/24/08

Paper No.: —

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/822591 Patent No: 7374890 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: _____

_____

_____

_____

_____

/GBN/ 1646

SPE **Art Unit**

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

In re Application of :
Thomas R. Keyer et al. :
Application No. 10/822,599 : DECISION ACCORDING STATUS
Filed: April 12, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 8932-927-999 :

This is in response to the petition filed August 23, 2004 under 37 CFR 1.47(a).

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

The above-identified application was filed on April 12, 2004, without an oath or declaration. Accordingly, on June 23, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Thomas R. Keyer, Lawrence J. Binder Jr., and Martin Walther as joint inventors but only executed by inventors Keyer and Walther was filed. The petition argues that application papers were forwarded to joint inventor Binder but that by his actions, refuses to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to and received by Mr. Binder and that to date, he has not returned an executed copy of the oath or declaration.

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

This matter is being referred to Technology Center 3733.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BAKER BOTTS LLP
2001 ROSS AVENUE
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DALLAS TX 75201-2980

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DEC 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,376,077 :
Application No. 10/822,606 :
Filed: April 12, 2004 : ON PETITION
Issued: May 20, 2008 :
Attorney Docket No. 074835.0101 (PD03E043) :

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

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted $400.00 for the requisite surcharge when only a $130.00 payment is necessary. Accordingly, the excess amount of $270.00 will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070522

DATE : May 21, 2007

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,184,869

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Thomas G. Black **Art Unit** 3661

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Patent No. 6,905,750
Issue Date: 06/14/2005
Application No. 10/822,619
Filed: 04/12/2004
Attorney Docket No. 7272-53

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 6, 2006.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

Telephone inquiries concerning this Notice may 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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

MAILED

APR 28 2010

OFFICE OF PETITIONS

In re Patent No. 6,974,253 :
Issue Date: December 13, 2005 :
Application No. 10/822,634 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 5487-00005 :

This is a decision on the petition under 37 CFR 1.378(c), filed March 12, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 14, 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.

Additionally, the request for Power of Attorney To Prosecute Applications Before the USPTO submitted with the petition has been accepted.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Jyrki Perttunen
Nahkelantie 160
P.O. Box 64
FI-04301 Tuusula, FINLAND

DATE: 8-27-07 APPLICATION NUMBER: 10/822647

DOC CODE: Refdec DOC DATE: _____

TC

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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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Chien-Hong Cheng et al :
Application No. 10/822,647 : DECISION ON PETITION
Filed: April 13, 2004 : UNDER 37 CFR 1.55(c)
Attorney Docket No. CHEN3657/EM :

This is a decision on the petition under 37 CFR 1.55(c), filed June 14, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Taiwan Application No.092120288, filed July 24, 2003.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 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 Director may require additional information where there is a question whether the delay was unintentional); and

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

This application was filed on April 13, 2004, which is after November 29, 2000 and within 12 months of July 24, 2003 (the filing date of the foreign application to which benefit is now being claimed). On June 14, 2007, 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 $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 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 should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 1774 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 the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/822,647	04/13/2004	1774	480	CHEN3657/EM	25	1

CONFIRMATION NO. 2982

CORRECTED FILING RECEIPT

OC000000025574572

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

Date Mailed: 08/27/2007

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)

Chien-Hong Cheng, Hsinchu, TAIWAN;
Jiun-Pey Duan, Hsinchu, TAIWAN;
Dinesh Kumar Rayabarapu, Hsinchu, TAIWAN;
Betty Marie Jennifer. S. P., Hsinchu, TAIWAN;

Assignment For Published Patent Application

Chien-Hong Cheng, Hsinchu, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number **23364**.

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 092120288 07/24/2003

If Required, Foreign Filing License Granted: 06/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/822,647

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Organic light emitting diode containing a novel Ir complex as a phosphorescent emitter

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/28/2010

Applicant	: Vincenzo Sestito	: DECISION ON REQUEST FOR
Patent Number	: 7630297	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/822,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1601** 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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James Kulbaski
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, VA 22314

MAILED

OCT 16 2009

Technology Center 2100

In re Application of:
Hiroshi MORIKAWA
Application No. 10/822,674
Filed: April 13, 2004
For: OPERATION UNIT FOR AN IMAGE FORMING APPARATUS

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed September 1, 2009 requesting consideration of the Document (AO) cited in the Information Disclosure Statement filed on December 18, 2006.

The petition is **GRANTED**.

A review of the application file record shows that applicant submitted the Japanese Patent Document (AO) 8-30151 along with its English language abstract on December 18, 2006.

37 C.F.R. § 1.98(a)(3)(i) states:

> Content of an information disclosure statement requires a concise explanation of the relevance.

M.P.E.P. § 609.04(a)(III) states:

> Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for consideration of the reference cited in the Information Disclosure Statement filed on December 18, 2006.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,674	04/13/2004	Hiroshi Morikawa	251708US-2 CONT	2872

22850 7590 10/19/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
KE, PENG	

ART UNIT	PAPER NUMBER
2174	

NOTIFICATION DATE	DELIVERY MODE
10/19/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Michael J. Keenan
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

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SEP 08 2005

Director's Office
Group 3700

In re Application of
Youngber, et al.
Serial No. 10/822,683
Filed: April 13, 2004

DECISION ON PETITION
TO MAKE SPECIAL

For: PRESSURE REGULATOR WITH SINGLE STRUT REGULATOR SEAT

Applicant's petition, filed July 15, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 9/7/05

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Christopher A. Rowland	: DECISION ON REQUEST FOR
Patent Number	: 7645254	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,697	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1672** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 20 2005

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: MATSUNAMI et al.
Application No. 10/822,700
Filed: April 13, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 16 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 16 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. Some of the limitations purporting to distinguish independent claims 1 and 17 from each reference do not appear to be in these claims. Claim 1 fails to recite "a first storage system having a first storage and a first controller, wherein the first controller creates a file system in a second storage included in a first storage system" (emphasis added). Claim 17 fails to recited "a computer program product executed by the first storage system . . ." (emphasis added).

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
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: MATSUNAMI, et al.
Application No. 10/822,700
Filed: April 13, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 21 November 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 16 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 21 November 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,129,382 :
Issue Date: October 31, 2006 :
Application No. 10/822,703 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 251737US0XDIV :

This is a decision on the petition filed December 19, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The fees required in connection with this matter are $100.00 (certificate of correction) and $130.00 (processing fee). Patentee has submitted a total of $500.00 and is thus entitled to a refund of $270.00. Requests for refund must be in writing and directed to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JUN 22 2006

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: WATANABE, et al.
Application No. 10/822,708
Filed: 13 April 2004
For: STORAGE CONTROL SUB-SYSTEM COMPRISING VIRTUAL STORAGE UNITS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 20 June 2005, to make the above-identified application special under 37 CFR 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Geert Maertens et al :
Application No. 10/822,711 : DECISION GRANTING PETITION
Filed: April 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2551-142 :

This is a decision on the petition, filed July 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 May 1, 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 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\822711.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370
ALEXANDRIA VA 22314

In re Application of: Hoshino et al.
Application No. 10/822,725
Filed: April 13, 2004
For: STORAGE SUBSYSTEM AND STORAGE SUBSYSTEM CONTROL METHOD

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a response to the petition filed July 6, 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.

for

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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Alexandria, VA 22314

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Kenichi Anasako :
Application No. 10/822,731 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. B0308T :

This is a decision on the petition under 37 CFR 1.137(b), filed by April 14, 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 23, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge. A Notice of Abandonment was mailed on March 17, 2005. In response, on April 14, 2005, the present petition was filed, as well as an executed declaration under 37 CFR 1.63 and the $130 surcharge under 37 CFR 1.16(e).

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed April 14, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 10 2005

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:
Shinichiro Isobe	:
Serial No.: 10/822,775	: PETITION TO MAKE SPECIAL
Filed: April 13, 2004	:
Attorney Docket No.: 2004_0569A	:

This is in response to applicant's petition filed May 17, 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. (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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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JJGJR.: 09-04

Paper No: __

BURNS DOANE
SWECKER & MATHIS L L P
POST OFFICE BOX 1404
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OFFICE OF PETITIONS

In re Application of
Khanuja, et al.
Application No. 10/822,790
Filing Date: 13 April, 2004
Attorney Docket No. 033166-028

DECISION ON PETITION

This is a decision on the petition filed on 13 August, 2004, to obtain a filing date of 13 April, 2004, for the instant application.

The petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

This nonprovisional application was deposited on 13 April, 2004.

On 7 July, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," (the 7 July Notice) and indicated that a filing date had not been granted because the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

The 7 July Notice also informed Petitioner that the application would receive the filing date consistent with the submission of required drawings, or that Petitioner might evidence that either drawings were not necessary for the understanding of the invention or the application as submitted otherwise satisfied the statutory requirements for a filing date.

Petitioner:

- filed the instant petition on 13 August, 2004; and

- alleged that the instant application incorporated by reference the parent such that the presence of the drawing in the parent with the incorporation by reference of that disclosure satisfied the statutory requirement.

When making such an allegation, it is proper to provide a copy of the parent application as filed.

Should Petitioner wish to proceed accordingly with the instant matter, Petitioner should submit a complete copy of the parent application as filed, a copy of the receipt card and a renewed petition. Petitioner should file these materials within two months of the date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[1]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
(Effective 28 September, 2004: (571-273-0025)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJR.: 01-05

Paper No: __

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SWECKER & MATHIS L L P
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ALEXANDRIA VA 22313-1404

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Khanuja, et al.
Application No. 10/822,790
Filing Date: 13 April, 2004
Attorney Docket No. 033166-028

DECISION ON PETITION

This is a decision on the petition filed on 30 September, 2004, to obtain a filing date of 13 April, 2004, for the instant application.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 13 April, 2004.

On 7 July, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," (the 7 July Notice) and indicated that a filing date had not been granted because the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

The 7 July Notice also informed Petitioner that the application would receive the filing date consistent with the submission of required drawings, or that Petitioner might evidence that either drawings were not necessary for the understanding of the invention or the application as submitted otherwise satisfied the statutory requirements for a filing date.

Petitioner:

- filed the original petition on 13 August, 2004, alleging therein that the instant application incorporated by reference the parent such that the presence of the drawing in the parent

with the incorporation by reference of that disclosure satisfied the statutory requirement, however, Petitioner failed to file with that petition a copy of the parent application, incorporated by reference, as filed, and so the petition was dismissed on 21 September, 2004;

- with the instant petition, filed 30 September, 2004, Petitioner has supplied a copy of the parent Application 10/135,763 alleged to have been incorporated by reference with a complete specification as part of the original disclosure, along with a copy of the receipt card from that filing (Specification p. 1 - 16, Claims p. 17 - 20, Abstract 1 page (unnumbered), Fig 1 (1 page).

A search of the official file reveals that on 13 April, 2004, a "Utility Patent Application Transmittal" letter was filed which itemized the filing of a declaration and preliminary amendment. The transmittal letter states that the application is a divisional of Application No. 10/135,763, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "complete specification" of the prior application, and the incorporation by reference statement appearing on the transmittal letter deposited on 13 April, 2004, stating that the entire disclosure of prior application (identified as Application No. 10/135,763) on the transmittal letter was incorporated by reference in the present application on 13 April, 2004, it appears that the specification was present in the Office on 13 April, 2004, albeit in the file of another application, *i.e.,* Application No. 10/135,763. Therefore, on petition, the application may be accorded the requested filing date.

(Although, while Petitioner has not alleged, alleging, *inter alia*, that the drawings omitted were "not *** necessary for the understanding of the subject matter sought to be patented," a review of the application also indicates that, *inter alia*, the application contains one or more methods and/or process claims (*e.g.*, Claim 17). It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01[1]) This application contains method claims, *e.g.*, claim 17. Therefore, the

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[1] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition

application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g).[2]

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "complete specification" of the prior application, and the incorporation by reference statement appearing on the transmittal letter deposited on 13 April, 2004, stating that the entire disclosure of prior application (identified as Application No. 10/135,763.) on the transmittal letter was incorporated by reference in the present application on 18 September, 2003, it appears that the specification was present in the Office on 13 April, 2004, albeit in the file of another application, *i.e.*, Application No. 10/135,763. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the 21 pages of specification, including claims and abstract, and 1 sheet of drawings supplied on 21 September, as a part of the original disclosure.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

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applications.

* * *

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

* * *

[2] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(g) Applications Filed Without All Figures of Drawings

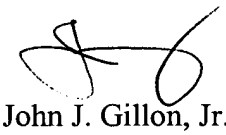
The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

* * *

Of course, the primary examiner is expected to compare the specification supplied on 21 September, 2004, to the disclosure of prior Application No. 10/135,763 in order to verify that the specification is, in fact, part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 13 April, 2004, using the application papers filed on that date and the 21 pages of specification and claims, including one (1) page of abstract, and 1 sheet of drawings supplied with the present petition, as the original disclosure, and for an indication in Office records that 1 sheet of drawings were present on filing.

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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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of :
Naruki Suetake et al :
Application No. 10/822,791 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. Q80419 :

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2863 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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Paper No. _____

Date : September 26, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Narujki ake et al
Application No. :10/822,791
Filed :April 13, 2004

The above-identified application has been assigned Patent No.6,954,703 and an issue date of October 11, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 11, 2005:

"All reference to Patent No. 6,954,703 to Naruki Suetake et al of Japan for HEAT SENSITIVE FLOW METER AND FUEL CONTROLLER appearing in the Official Gazette of October 11, 2005 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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ATTN: IP SERVICES, K1-53
P. O. BOX 999
RICHLAND WA 99352

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OFFICE OF PETITIONS

In re Application of
TONKOVICH, et al.
Application No. 10/822,839
Filed: April 13, 2004
Attorney Docket No. **E1666ACIPCONDIV**

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 February 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 23, 2008, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated January 19, 2008, in the above-identified application 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]

It is noted that petitioner requested that correspondence be sent to him at P.O. Box 29230, San Francisco, CA 94129-0230; however, a change of correspondence address was submitted on January 23, 2008 changing the address to customer number 29171. If appropriate, a new change of address should be filed in accordance with MPEP 601.03. While a courtesy copy of this decision is being mailed to Mr. Rosenberg at the address noted on the petition, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **FRANK ROSENBERG**
P.O. BOX 29230
SAN FRANCISCO, CA 94129-0230

[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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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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OFFICE OF PETITIONS

In re Application of :
Michael J. **DUNKLEY, et al.** :
Application No. 10/822,850 : DECISION DISMISSING PETITION
Filed: April 9, 2004 : UNDER 37 CFR 1.313(a)
Attorney Docket No. **0198.00** :

This is a decision on the petition under 37 CFR 1.313(a), filed January 23, 2009, 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 October,27, 2008 with the issue fee being due on or before January 27, 2009. The petition states that 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 the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 3771 for appropriate processing of the RCE filed January 23, 2009, and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

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OFFICE OF PETITIONS

In re Application of:	:	
Bijan Lashgari	:	
Application No. 10/822,875	:	DECISION ON
Filed: April 13, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
MOISTURE RESPONSIVE	:	
SPRINKLER CIRCUIT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the 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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

The instant petition has been found 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 as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Communication Regarding Rescission of Nonpublication Request indicating a projected publication date of May 18, 2006, accompanies the present petition.

This application is being referred to the Publishing Division for publishing of the application in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/822,875	04/13/2004	Bijan Lashgari	135/42

CONFIRMATION NO. 3174

27612
AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

Date Mailed: 02/06/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/18/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APR 27 2005

In re Application of	:	
A. Cooper	:	AP
Serial No:10/822,878	:	PETITION UNDER
Filed: April 13, 2004	:	M.P.E.P. 708.02, IV
For: METHOD OF PRODUCING ABRASIVE TOOLS	:	

This is in response to the petition filed April 2, 2005, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement of age. Accordingly, the petition is denied.

The petition is **DENIED**

R Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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US PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
MAY 15 2005

Re: Patent Appl Ser. No 10/822,878
Filed: 04/13/2004
Examiner:
Art Unit: Cooper et al

Asst Comm. for Patents

PETITION
TO MAKE APPLICATION
SPECIAL

Sir:
The inventor in this application
A. COOPER
is over 65 years old.
It is therefore respectfully requested to make application
SPECIAL
and to expedite examination

Respectfully submitted
I. ZBOROVSKY
Agent of appl
RN 28,563

PAGE 5/10 * RCVD AT 5/15/2005 6:50:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:63

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 23 2005

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

APR 27 2005

In re Application of	:	
A. Cooper	:	AP
Serial No:10/822,879	:	PETITION UNDER
Filed: April 13, 2004	:	M.P.E.P. 708.02, IV
For: METHOD OF PRODUCING POLYURETANE PADS AND SIMILAR ARTICLES AND THE ARTICLE PRODUCED THEREBY	:	

This is in response to the petition filed April 2, 2005, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement of age. Accordingly, the petition is denied.

The petition is **DENIED**

R. Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

RECEIVED
CENTRAL FAX CENTER
MAY 15 2005

US PATENT AND TRADEMARK OFFICE

Re: Patent Appl Ser. No 10/822,879
Filed: 04/13/2004
Examiner: 1772
Art Unit: Cooper et al

Asst Comm for Patents

PETITION TO MAKE APPLICATION SPECIAL

Sir:

The inventor in this application

A. Cooper

is over 65 years old.

It is therefore respectfully requested to make application SPECIAL and to expedite examination

Respectfully Submitted

I. Zborovsky
Agent of Appl
RN 28,563

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 23 2005

PAGE 3/10 * RCVD AT 5/15/2005 6:50:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * (

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3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of :
David Michael Glenn, et. al. :
Application No. 10/822,886 :
Filed: April 13, 2004 :
Attorney Docket No. 4829A(CIP) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 8, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed September 5, 2006. A Notice of Abandonment was mailed on 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) under 37 CFR 1.114 with the $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Office acknowledges receipt of $1,050 for a three months extension of time. 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 $1,050 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited back to the credit card.

The application file is being referred to Technology Center Art Unit 1616 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of:
Kevin Embree
Application No. 10/822,894 :
Filed: April 12, 2004 :
For: METHOD AND SYSTEM TO DETECT OUTLYING BEHAVIOR IN A NETWORK-BASED MARKETPLACE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. 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 B) above.

As to condition B), the reason "Discontinuation of the attorney/client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 12/27/04

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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Peters et al. :
Application No. 10/822,910 : DECISION ON PETITION
Filed: 04/13/2004 :
Attorney Docket No. MSFT-3490/307339.01 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 5, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance mailed July 14, 2008, which set a three (3) month statutory period for reply. In the absence of a timely filed reply, the application became abandoned on October 15, 2008. On November 6, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that the Notice of Allowance mailed July 14, 2008, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance 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.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an

Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the file jacket and docket records where the Notice of Allowance would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice of Allowance was not received.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status. No petition fee is required.

Technology Center Art Unit 2178 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the Notice of Allowance. The three (3) month statutory period for responding to the Notice of Allowance will be set to run from the re-mailing date of the Notice.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 030105

MAR 0 9 2005

KAPLAN & GILMAN, L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

In re Application of:	:	
ZVI BLEIER	:	
Application No. 10/822,916	:	DECISION ON PETITION
Filed: April 13, 2004	:	TO MAKE SPECIAL
Attorney Docket No. 148/08X2 DIV	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 13, 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.), Section 708.02, Item II. INFRINGEMENT

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(D) 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 contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item II.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

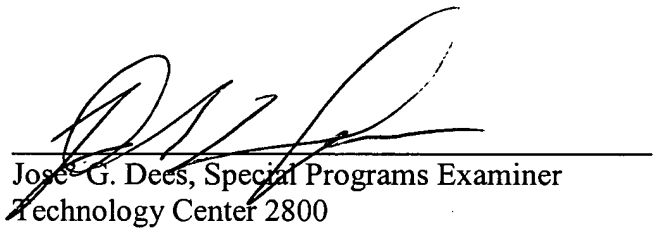
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent 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 she/he 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. Section 1309.

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



Jose' G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MALCOLM J. CHISHOLM, JR.
ATTORNEY AT LAW
P. O. BOX 278
220 MAIN STREET
LEE MA 01238

In re Application of:
Gerald D. STOMSKI
Application No. 10/822,917
Filed: April 13, 2004
For: **TRANSPORTABLE SECURITY PORTAL FOR SCREENING POTENTIAL TERRORITS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 27, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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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Locke Lord Bissell & Liddell LLP
Attn: Michael Ritchie, Docketing
2200 Ross Avenue
Suite # 2200
DALLAS, TX 75201-6776

Mail Date: 04/21/2010

Applicant	: Norman D. Hinman	: DECISION ON REQUEST FOR
Patent Number	: 7588745	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/822,924	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1405** 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

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

In re Application of :
Carles Puente et al :
Application No. 10/822,933 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 68349-00010USPX :

This is a decision on the petition, filed July 20, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 26, 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 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Mirella Ezban et al :
Application No. 10/822,943 : DECISION GRANTING PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 6659.200-US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed September 21, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 22, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOSER PATTERSON & SHERIDAN
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Zoran Stefanoski et al :
Application No. 10/822,958 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. NVDA/P001203 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 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 July 29, 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 September 30, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JAMES SHERIDAN
3040 POST OAK BLVD. SUITE 1500
HOUSTON, TX 77056-6582

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P O BOX 82788
PORTLAND, OR 97282-0788

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OFFICE OF PETITIONS

In re Application of :
Peter Q. Oakley :
Application No. 10/822,965 : DECISION GRANTING PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. F-340 (0766US) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 16, 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 September 17, 2005. A Notice of Abandonment was mailed on December 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 16, 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 2858 for appropriate action in the normal course of business on the reply received June 8, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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17 NOV 2006

Lathrop & Gage LC
4845 Pearl East Circle
Suite 300
Boulder, CO 80301

In re Application of:
Stephen Charles Dutka
U.S. Application No.: 10/822,972
Filing Date: April 14, 2004
Attorney's Docket No.: 410523
For: METHODS AND STRUCTURES FOR RAPID CODE ACQUISITION IN SPREAD SPECTRUM COMMUNICATIONS

DECISION

This decision is issued in response to counsel's "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" filed October 20, 2006 which is being treated as a Petition to Withdraw from Representation under 37 CFR 1.36. No petition fee is required.

DISCUSSION

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record . . . appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney or agent, under 37 CFR 1.36(b), Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of himself or herself and another. A withdrawal of another attorney or agent of record, without also withdrawing the attorney or agent signing the request is a revocation, not a withdrawal.
>
> The Director of the United States Patents and Trademarks usually requires that there be at least 30 days between approval of 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). This is

> so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been met, Petition to Withdraw from Representation under 37 CFR 1.36 is **GRANTED** and is effective as of the mail date of this decision.

All communications will be forwarded to:

Kutak Rock LLP
1801 California Street
Suite 3100
Denver, CO 80202

CONCLUSION

In view of the above discussion, counsel's Request for Withdrawal is **GRANTED**.

The application is being referred back to GAU 2611 for further processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration/Office of Petitions
Tel.: (571) 272-3298
Fax: (571) 273-0459

cc: Kutak Rock LLP
1801 California Street
Suite 3100
Denver, CO 80202

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BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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In re Application of :
ALEXANDER, Robert M. IV et al. :
Application No. 10/822,999 : DECISION ON PETITION
Filed: April 13, 2004 : TO WITHDRAW
Attorney Docket No. **67519.001138** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

The request is not approved because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to BAKER & MCKENZIE LLP has been revoked by the assignee of the patent application on November 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **HUNTON & WILLIAMS LLP**
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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Merchant & Gould, PC
Attn: Mark T. Skoog
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
John D. Hilgren et al. :
Application No. 10/823,005 : DECISION ON PETITION
Filed: April 12, 2004 : TO WITHDRAW
Attorney Docket No. 163.1397USC2 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE : S. Morano IV

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/7/07

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/823,008 Patent No.: 7197997

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: _____

_____

_____

_____

_____

SPE

3617
Art Unit

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of :
Milton A. Fuller :
Application No. 10/823,017 : DECISION ON PETITION
Filed: April 12, 2004 : TO WITHDRAW
Attorney Docket No. 022274-000200US : 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 2, 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, ***agents of record instructed by Assignee to return to Assignee for further prosecution***, do not meet any the conditions set forth in 37 CFR 10.40 because in order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director.

In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original

owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on December 18, 2006 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Pindi Products**
505 S. Arlington Avenue, Suite 102
Reno, NV 89509

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/823,017	04/12/2004	Milton A. Fuller	022274-000200US

CONFIRMATION NO. 3546

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000022483661
OC000000022483661

Date Mailed: 02/13/2007

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/18/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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SILVERSKY GROUP LLC
5422 LONGLEY LANE, SUITE B
RENO NV 89511

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OFFICE OF PETITIONS

In re Application of :
FULLER, Milton A. :
Application No. 10/823,017 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. **300004-00003C** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before June 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 6, 2007. Accordingly, the date of abandonment of this application is June 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Publishing Division for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of :
Yamazaki, et al. : DECISION ON PETITION
Application No. 10/823,020 :
Filed: April 12, 2004 :
Docket No.: 1232-5377 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 13, 2006.

The petition is hereby **GRANTED**.

This application was held abandoned December 2, 2005 for failure to timely submit a proper reply to the restriction requirement mailed November 1, 2005. Notice of Abandonment was mailed June 22, 2006.

Petitioners assert non-receipt of the restriction requirement mailed November 1, 2005.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioners at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the non-final Office action would have

been entered had it been received along with a statement from petitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Technology Center 2800 for mailing of a new Office action. The time period for response will be set to run from the date the new Office communication is mailed.

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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SEP - 3 2004

In re Application of
Ali Nikkhah
Serial Number: 10/823,040
Filed: April 12, 2004
For: CLEANING MECHANISM FOR ION EMITTING AIR CONDITIONING DEVICE

PETITION UNDER
MPEP 708.02 VIII

This is in response to the petition filed June 16, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SYLMARK, INC.
4929 WILSHIRE BLVD
SUITE 500
LOS ANGELES CA 90010

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Winstead Sechrost & Minick P.C.
P.O. Box 50784
Dallas, TX 75201

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OFFICE OF PETITIONS

In re Application of :

Vlad Pigin :
Application No. 10/823,042 : DECISION ON PETITION
Filed: April 13, 2004 : TO WITHDRAW
Attorney Docket No. 1064.01000 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Ruben C. DeLeon
Akin Gump Strauss Hauer & Fled LLP
1700 Pacific Avenue
Dallas, TX 75201

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Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Richard W. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7590555	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/823,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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OCT 26 2004

Paper No. 101804

W. Michael Cooper
P.O. Box 350
St. Leonard, MD 20685

In re Application of:	:	
Peter Thir	:	DECISION ON PETITION
Serial No.: 10/823,058	:	TO MAKE SPECIAL
Filed: April 13, 2004	:	
Attorney Docket No.: **ER 923411794 US**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 13, 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 declaration from the inventor, Peter Thir, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of:
DUNKO, Greg A.
Application No.: 10/823,069
Filed: April 13, 2004
Attorney Docket No.: 9314-67

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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KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

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OFFICE OF PETITIONS

In re Application of	:	
Mark David Heath	:	
Application No. 10/823,082	:	ON PETITION
Filed: 12 April, 2004	:	
Atty Dckt No. GREENS-46002	:	

This is a decision on the petition filed on 22 August, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

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

---

[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 utlity 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 orlapsed 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 CFR1.17(l);

(3) a showing to the satisfaction of theCommissioner 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)).

"Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 25 August, 2004, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 24 June, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 17 March, 2005.

Petitioner asserts unavoidable delay in that the Notice mailed on 24 June, 2004, was never received because it was sent to an incorrect correspondence address. Specifically, petitioner states that the application transmittal sheet inadvertently identified the correspondence address as Customer Number "2625" rather than "26252", and the Notice was mailed to the address associated with Customer Number 2625.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Office communication mailed on 24 June, 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 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.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (*e.g.*, if the practitioner has a history of not receiving Office actions).

---

[2] 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).

A review of the record reveals that the Notice to File Missing Parts of Nonprovisional Application was mailed on 24 June, 2004, and was returned to the Office as undeliverable on 14 July, 2004. However, the showing of record is that the Office action was properly addressed to the address of Customer No. 2625, the Customer Number identified as the correspondence address on the Utility Patent Application Transmittal filed on 12 April, 2004. As such, the showing of record is that the USPTO properly mailed the Office action to the address provided by petitioner, but that the address provided by petitioner was incorrect. Failure to provide a proper correspondence address is not grounds for withdrawal of the holding of abandonment. As such, the showing is that there was no irregularity in the mailing of the Office action mailed on 24 June, 2004. Rather, petitioner failed to provide the Office with a proper correspondence address. As such, the failure to receive the Office action is the fault of petitioner and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

If petitioner has evidence that he attempted to provide the correct correspondence address to the Office prior to the mailing of the Office action mailed on 24 June, 2004, petitioner may wish to consider submitting said evidence with a renewed petition.

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

[3] 35 U.S.C. § 133.

> 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]

As stated above, the showing of record is that the failure to receive the Office action mailed on 24 June, 2004, occurred because petitioner failed to provide a proper correspondence address with the application papers filed on 12 April, 2004. A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the U.S. Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay.[7]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

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[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).

[7] See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

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.

(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 petitioners 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 petitioners' convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The correspondence address has been changed in accordance with the declaration submitted with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-05

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

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OCT 12 2005
OFFICE OF PETITIONS

In re Application of :
Mark David Heath :
Application No. 10/823,082 : ON PETITION
Filed: 12 April, 2004 :
Atty Dckt No. GREENS-46002 :

This is a decision on the petition filed on 27 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 August, 2004, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 24 June, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 17 March, 2005. The petition under 37 CFR 1.137(a) filed on 22 August, 2005, was dismissed on 9 September, 2005.

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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 CFR1.137(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.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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Amin, Turocy & Calvin LLP
127 Public Square
57th Floor, Key Tower
Cleveland, OH 44114

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Vincent K. Jones IV, et. al. :
Application No. 10/823,087 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 070903/QUALP700USA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file replacement drawings on or before April 14, 2008, as required by the Notice to Allowability, mailed January 14, 2008. Accordingly, the date of abandonment of this application is April 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings (Figures 1-10), (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

A courtesy copy of this decision will be mailed to the address on the petition.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management to be processed into a patent.

Brian Brown
Petitions Examiner
Office of Petitions

cc: Himanshu S. Amin
Amin, Turocy & Calvin, LLP
1900 E. 9th Street
24th Floor, National City Center
Cleveland, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Cynthia C. Bamdad, et al. :
Application No. 10/823,097 : DECISION ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. M1015.70013US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 2007, 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 March 26, 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 May 27, 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

Peter L. Berger, Esq.
Levisohn, Berger & Langsam, LLP
19th Floor
805 Third Avenue
New York, NY 10022

In re application of : **DECISION ON PETITION**
Paola Valentini : **TO MAKE SPECIAL**
Application No. 10/823,106 : **(ACCELERATED**
Filed: April 12, 2004 : **EXAMINATION)**
For: TWISTED CLOSED LOOP JEWELRY ARTICLE

This is in response to the petition filed on April 12, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) and (E) above.

Regarding item (B), the petition fails include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

Regarding item (E), the petition includes a list of nine references, and is followed by a "DISCUSSION OF UNCOVERED PATENTS" by applicant's attorney Barry E. Negrin. Mr. Negrin discusses two of the references in detail and concludes with the statement, "The remaining patents disclose jewelry articles having repeating elements that are identically configured and do not twist, and therefore appear to be less relevant than those mentioned above and need no be discussed in detail." This statement is insufficient to meet the requirement

of a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/15/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Peter L. Berger, Esq.
Levisohn, Berger & Langsam, LLP
19th Floor
805 Third Avenue
New York, NY 10022

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JAN 26 2005

TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Paola Valentini : **TO MAKE SPECIAL**
Application No. 10/823,106 : **(ACCELERATED**
Filed: April 12, 2004 : **EXAMINATION)**
For: TWISTED CLOSED LOOP JEWELRY ARTICLE

This is in response to the renewed petition filed on January 10, 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).

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
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 01/25/05

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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SEP 22 2008

In re Application of :
Anand G. Dabak, et al. :
Application No. 10/823,130 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. TI-28984A :

This is a decision in response to the petition, filed April 30, 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 October 12, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 13, 2008. This decision precedes the mailing of a Notice of Abandonment. On April 30, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Robert N. Rountree 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. While a courtesy copy of this decision is being mailed Mr. Rountree, all future correspondence 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 amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2008.

[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: ROBERT N. ROUNTREE, LLC
70360 HIGHWAY 69
COTOPAXI, CO 81223

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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NAVTEQ NORTH AMERICA, LLC
425 West RANDOLPH STREET
SUITE 1200, PATENT DEPT
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Robert Chojnacki	: DECISION ON REQUEST FOR
Patent Number	: 7640595	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/823,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **998** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Huang, Li-Ting.	:	
Application No. 10/823,135	:	ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 14396 B	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 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 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 Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JAN 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert L. Bailey et al	:	
Application No. 10/823,155	:	ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 18602-07958	:	

This is a decision on the petition filed September 15, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 14, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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AUG - 2 2004

DCM

In re Application of	:	
Ali NIKKAH	:	
Serial Number: 10/823,163	:	PETITION UNDER
Filed: April 12, 2004	:	MPEP 708.02 VIII
For: MULTIPLE BLADE BLENDER APPARATUS	:	

This is in response to the Petition to Make Special filed April 15, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SYLMARK, INC.
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SUITE 500
LOS ANGELES CA 90010

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Stout, Uxa, Buyan & Mullins, LLP
4 Venture, Suite 300
Irvine, CA 92618

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OFFICE OF PETITIONS

In re Application of :
Manimaran Muthiah et al. :
Application No. 10/823,164 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 10013.0005US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 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 December 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). A three month extension of time was obtained. Accordingly, the date of abandonment of this application was June 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 a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1797 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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OFFICE OF PETITIONS

In re Application of :
Anthony Nikodym et al :
Application No. 10/823,173 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 22176.0003.CON (ITW-13433 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 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 formal drawings in a timely manner in reply to the Notice of Allowability mailed October 19, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 20, 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 formal drawings; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Philippe Lafon :
Application No. 10/823,183 : ON PETITION
Filing or 371(c) Date: 04/13/2004 :
Title of Invention: :
METHOD, AND RELATED :
SYSTEM, FOR OVERLAYING A :
GRAPHICS OBJECT ON A :
DIGITAL PICTURE :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 4, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 20, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 21, 2006. A Notice of Abandonment was mailed August 8, 2006.

Applicant files the instant petition and Amendment in response to the Office action. Accordingly, the petition is granted.

The address given on the petition differs from the address of record; however, Office records do not indicate a change of address has been submitted. 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.

This application is being referred to Technology Center Art Unit 2928 for processing of the Amendment filed with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: MARK E. SCOTT
701 BRAZOS STREET
SUITE 701
AUSTIN, TX 78701

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ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
Marchant, et al. : DECISION
Application No. 10/823,218 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 26526-15 :
For: METHODS OF MAKING AND USING SURFACTANT POLYMERS

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application and in the alternative, the petitions under 37 CFR 1.137(a) and 1.137(b) to revive the above-identified application. The petitions were filed in the same paper on August 14, 2006 (certificate of mailing date August 11, 2006).

The petition under 37 CFR 1.181 is **dismissed**.

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

This application became abandoned for failure to timely submit the issue fee, the publication fee, and a completed PTOL-85(b) in response to the Notice of Allowance and Fee(s) Due, mailed on July 29, 2005, which set a non-extendable three month period for reply. The application became abandoned on October 30, 2005. A Notice of Abandonment was mailed on June 13, 2006.

Petitioners argue that the holding of abandonment should be withdrawn because the July 29, 2005 Examiner's Amendment listed some incorrect claims, and the Office's failure to correct the matter after repeated communications from petitioners resulted in petitioners' failure to pay the issue and publication fees. On September 15, 2005, petitioners filed a 312 amendment to correct the examiner's claim listing and a typographical error. The Office did not formally respond to the 312 amendment. Petitioners filed a Notice of Appeal on the non-extendable due date for payment of the issue fee on certificate of mailing date October 31, 2005. It is noted that petitioners filed

an Appeal Brief on January 3, 2006.

As stated in the July 29, 2005 Notice of Allowance and Fee(s) Due, "... THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151...."

Petitioners are reminded that the requirements set in the July 29, 2005 Notice were never withdrawn. The application did become abandoned three months after July 29, 2005, on October 30, 2005.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Petitioners request consideration under 37 CFR 1.137(a) next. The $250.00 petition fee will be charged to deposit account no. 02-2051. 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). The petition under 37 CFR 1.137(a) is **granted.**

The petition under 37 CFR 1.137(b) is **dismissed as moot.**

The fees paid for filing the improper Notice of Appeal and the Appeal Brief will be refunded to petitioners' credit card.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JJGJr: 04-06

Paper No: __

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SANDRIDGE & RICE, PLLC
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ATLANTA GA 30357-0037

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OFFICE OF PETITIONS

In re Application of
Pylkki, et al.
Application No. 10/823,235
Filed: 13 April, 2004
Attorney Docket No.: A202 1441.2

ON PETITION

This is a decision on the petition filed (with fee) on 3 March, 2006, to expunge a document from the file and considered under 37 C.F.R. §1.59.[1]

The petition under 37 C.F.R. §1.59 is **DISMISSED**.

The instant application was filed on 13 April, 2004, and thereafter Petitioner filed a series of

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[1] The regulations at 37 C.F.R. §1.58 provide:

§1.59 Expungement of information or copy of papers in application file.

(a)(1)Information in an application will not be expunged and returned, except as provided in paragraph (b)of this section. See §1.618 for return of unauthorized and improper papers in interferences.

(2)Information forming part of the original disclosure (*i.e.*,written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175)will not be expunged from the application file.

(b)An applicant may request that the Office expunge and return information, other than what is excluded by paragraph (a)(2)of this section, by filing a petition under this paragraph. Any petition to expunge and return information from an application must include the fee set forth in § 1.17((h)and establish to the satisfaction of the Commissioner that the return of the information is appropriate.

(c)Upon request by an applicant and payment of the fee specified in §1.19(b),the Office will furnish copies of an application, unless the application has been disposed of (see §1.53(e),(f)and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan.20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan.4, 1984, effective Apr.1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb.11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct.10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov.7, 2000]

Information Disclosure Statements (generally filed on Form PTO/SB/08A/B, in lieu of PTO Form 1449A) (IDS), with the most recent having been deposited by Petitioner with the Office on 13 February, 2006.

Petitioner wishes to remove the copy reference identified as 314 on sheet 22 of 23 of the Supplemental IDS deposited of record on 13 February, 2006.

However, what Petitioner seeks constitutes the alteration of part of a document, which is not an action subject of 37 C.F.R. §1.59.

Petitioner may alternatively submit a substitute of the PTO/SB/08A/B to be substituted and considered by the Examiner in the place of the document deposited on 13 February, 2006.

For this purpose, Petitioner is given one (1) month, which period is *not* extendable under the provisions of 37 C.F.R. §1.136, and in no case less than 30 days within which to file this replacement document, which the Examiner may substitute for the IDS containing the improvident reference and then consider in due course.

The instant application is released to Technology Center 3600 to await for one (1) month, and in no case less than 30 days, from the mail date of this decision for the Petitioner to submit the filing described above before further processing 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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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No:	**7,195,053B2**	)	Confirmation No.: **4063**
Application No.	**10/823,235**	)	Art Unit: **3634**
Issued:	**April 13, 2004**	)	Examiner: **Johnson, Blair M.**
Inventors:	**PYLKKI *ET AL.***	)	Atty. Docket No.: **A202 1441.2**
Title: **REDUCED VISIBILITY INSECT SCREEN**		)	

Approved for entry 4/24/06 BJ

REQUEST FOR CERTIFICATE OF CORRECTION OF ISSUED PATENT PURSUANT TO 37 C.F.R. §1.322

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Attention: Certificate of Correction Branch
Patent Issue Division

Sir:

Request is hereby made, pursuant to 37 C.F.R. §1.322, for a Certificate of Correction of Issued Patent for the reasons set forth below. The text of the correction is submitted on the Certificate of Correction form PTO/SB/44, attached hereto.

The patent as published contained mistakes of a typographical nature, correction of which are hereby requested. The correction does not constitute new matter or require reexamination.

Applicants respectfully request that the correction appear on the face of the patent.

Applicants submit that the Letters Patent was incorrectly printed without the complete priority data of all of the related U.S. Applications. Specifically, the filing date of prior U.S. application serial number 10/068,069 is incorrectly shown as February 2, 2002, however, the correct filing date for

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 4, 2007.

Jo M. Jones

WCSR 3581798v1

APR 11 2007

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Intellectual Property Administration
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Mail Stop 35
FORT COLLINS CO 80528

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OFFICE OF PETITIONS

In re Application of :
Susan Gaye Elkington et al. :
Application No. 10/823,241 : DECISION ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 200401303-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 16, 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 Notice of Appeal; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2184 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIPPE MEERT
AAIGEMDORP 84
AAIGEH, COST-VLAANDEREN 9420 BE BELGIUM
Belgium AIR MAIL

2/29/08

In re Application of:
Meert, Philippe
Serial No. 10/823,247
Filed: Apr. 13, 2004
Docket: 38996-1
Title: EYEGLASS CLEANER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition to withdraw holding of abandonment filed on Jan. 8, 2008. The petition is considered pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely submit a corrected drawing as required by the examiner in the Notice of Allowance mailed Aug. 24, 2007. The Notice of Allowance sets forth a three-month period for payment of issue fee and submission of a corrected drawing. On Dec. 20, 2007, the application became abandoned for failure to submit a corrected drawing and a Notice of abandonment was mailed.

In the petition, petitioner asserts that a timely payment of issue fee was made on Nov. 8, 2007. Petitioner purports that the examiner's e-mail of Aug. 31, 2007 had lead him to believe he does not have to make any changes/additions because the examiner indicated that the case was complete.

In this particular situation, the e-mail is considered part of the written record[1]. Under the circumstances, the examiner's e-mail of Aug. 31, 2007 indeed mislead the applicant into believing that no further changes or additions were necessary. The applicant has relied on such e-mail. The holding of abandonment is withdrawn. The examiner has been directed to accept the corrected drawing filed on Jan. 8, 2008.

---

1. 37 CFR § 1.2 Business to be transacted in writing. All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

In view of the above, the Notice of Abandonment mailed Dec. 20, 2007 is withdrawn and the late filing of the corrected drawing is accepted. This application is being forwarded to the Office of Publications for further processing.

Petition Granted.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Quintero Llera et al.	:	DECISION ON PETITION
Application No. 10/823,257	:	TO WITHDRAW
Filed: April 13, 2004	:	FROM RECORD
Attorney Docket No. 153454600017	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that a Revocation of Power of Attorney with New Power of Attorney was submitted by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
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DALLAS TX 75202

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CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Michael Kapolka et al. :
Application No. 10/823,271 : DECISION ACCORDING STATUS
Filed: April 12, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 03-050-E :

This is in response to the petition filed December 22, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April 12, 2004, naming Michael Kapolka, Sam Chang, Andrew Smith, Brian Crull, Dennis Essenmacher, Tracy Meade, Rebecca Lohr, Gregory A. Dils, Hassanayn Machlab El-Hajj, Nik Neymeyer and Kevin Williams as joint inventors but without a signed declaration. Accordingly, on June 25, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on December 22, 2004, an oath or declaration executed by joint inventors Essenmacher, Meade, Lohr, Dils and Neymeyer, a four month extension of time and the instant petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventors Kapolka, Chang, Smith, Crull, El -Hajj and Williams refuse to sign the oath or declaration and thus by their actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that while the application papers were sent to joint inventors Kapolka, Chang, Smith, Crull, El -Hajj and Williams, that neither has returned an executed oath or declaration. Further, the petitioners have shown that non-signing inventors Kapolka, Chang and Crull have indicated on previous occasions that they

would not execute any paperwork for their previous employer, the assignee. Non-signing inventor Williams, while he has received the application papers and the request to execute the oath or declaration, has simply not returned such. Non-signing inventor Smith has verbally refused to execute the oath or declaration in the instant matter and in addition to the packet of materials, including the application papers and the oath or declaration, mailed to non-signing inventor El-Hajj on October 29, 2004, a follow-up attempt was made by email. Petitioners have shown that all attempts to have the non-signing inventors execute the oath or declaration have been unsuccessful.

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 3661 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

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KEVIN WILLIAMS
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OFFICE OF PETITIONS

In re Application of
Michael Kapolka et al.
Application No. 10/823,271
Filed: April 12, 2004
For: VEHICLE INTERACTIVE SYSTEM

Dear Messrs. Kapolka, Chang, Crull, Smith, El-Hajj and Williams:

You are named as joint inventors 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 joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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OFFICE OF PETITIONS

In re Application of
Michael Kapolka et al
Application No. 10/823,271
Filed: April 12, 2004
Attorney Docket No. 03-050-E641

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed July 13, 2005, which is being treated 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 amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon (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 3661 for appropriate action on the amendment filed July 13, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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
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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Mail Date: 04/21/2010

Applicant	: Tremitchell L. Wright	: DECISION ON REQUEST FOR
Patent Number	: 7625470	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/823,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **822** 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Liping Ren :
Application No. 10/823,298 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. IR-2390 (2-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 25, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the 3-month extension of time filed August 27, 2008, using a Certificate of Mailing under 37 CFR 1.8 dated August 25, 2008, the date of abandonment of this application is August 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 required by 37 CFR 1.114, (2) the petition fee of $1,620, 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 AU 2814 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MITCHELL D. BITTMAN
SEQUA CORPORATION
3 UNIVERSITY PLAZA
HACKENSACK NJ 07601

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Michael O. Rocheleau :
Application Number: 10/823299 : ON PETITION
Filing Date: 04/13/2004 :
Attorney Docket Number: MT-136 :

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure To Receive Office Action," filed on 3 April, 2007.

This application became abandoned on 7 February, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 6 November, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 6 March, 2007.

Petitioner asserts that the Notice of Allowance was not received and a search of the file jacket and docket record indicates that this Office Communication was not received.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance mailed on 6 November, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be

attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the Notice, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office communication.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. The Notice set a three (3)-month shortened statutory period for reply. Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for three (3) months from the mail date of the Notice as documentary proof of non-receipt of the Office communication.

As such the application is properly held abandoned.

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." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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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[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).

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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MITCHELL D. BITTMAN
SEQUA CORPORATION
3 UNIVERSITY PLAZA
HACKENSACK NJ 07601

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OFFICE OF PETITIONS

In re Application of	:	
Michael O. Rocheleau	:	DECISION ON PETITION TO
Application No: 10/823,299	:	WITHDRAW HOLDING OF
Filed: 13 April, 2004	:	ABANDONMENT
Attorney Docket No. MT-136	:	

This is a decision on the renewed petition filed on 17 August, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 6 November, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 6 March, 2007. The petition filed on 3 April, 2007, was dismissed on 6 August, 2007.

Petitioner asserted, in the original petition, that the Notice of Allowance was not received, and that a search of the file jacket and docket record indicates that this Office Communication was not received.

The present renewed petition is accompanied by a copy of counsel's docket record and file jacket, and a statement by counsel's secretary, Amelia C. Hermann, in which she explains the docketing system used by counsel.

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 non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to 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's counsel, registered patent attorney Mitchell C. Bittman, asserted in the original petition, that a search of the file jacket and docket records indicates that the Office action was not received. Additionally, the present renewed petition is accompanied by a copy of the docket report and file jacket where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Consequently, there is no abandonment in fact, and any holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 3700 technical support staff for remailing of the Notice of Allowance and Fee(s) Due mailed on 6 November, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Samuel H. Dworetsky
AT&T
P.O. Box 4110
Middletown NJ 07748

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DEC 16 2008

In re Application of :
Cohen, et al. :
Application No. 10/823,306 : DECISION ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 113062 CON-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned May 23, 2007 for failure to reply in a timely manner to the non-final Office action mailed February 22, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed September 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

The correspondence address indicated on the petition differs from that contained in the record. The instant decision is being dually mailed. However, all future correspondence concerning this application will be directed to the address contained in the record until such time as appropriate instruction is received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3205.

This application is being referred to Technology Center AU 2168 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: WILLIAM RYAN
Law Offices Of William Ryan
1577-D New Garden Road, Suite 300
Greensboro, NC 27410

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Bruce G. Aitken et al :
Application No. 10/823,331 : DECISION GRANTING PETITION
Filed: April 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SP03-049A :

This is a decision on the petition, filed November 27, 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 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) 272-3218.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\823331.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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OCT 31 2007

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of	:	
Bruce G. Aitken et al	:	
Application No. 10/823,331	:	DECISION GRANTING PETITIONS
Filed: April 13, 2004	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. SP03-049A	:	37 CFR 1.313(c)(2)

This is a decision on the petitions, filed October 24, 2007, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue on or before September 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 6, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1440 issue fee, (2) the petition fee of $1540 and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2879 for processing the RCE and for consideration of the Information Disclosure Statement submitted on October 24, 2007.

Irvin Dingle
Petition Examiner
Office of Petitions

[1] **Error! Main Document Only.** *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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/03/2010

Applicant	: Robert Lloyd Robinett	: DECISION ON REQUEST FOR
Patent Number	: 7643848	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/823,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 2 2 2004

DCM

In re Application of	:	
Steven A. Bogen, et al.	:	
Serial Number: 10/823,368	:	DECISION
Filed: April 12, 2004	:	ON
For: SLIDE STAINER WITH HEATING	:	PETITION

This is a decision on the Petition to Make Special because of Actual Infringement, filed under sections 37 C.F.R. 1.102 and 708.02 II of the MPEP on April 12, 2004, regarding the above-referenced application. The fee required under 37 CFR 1.17(h) has been paid. The petition meets the requirements of section 708.02 II of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken or this case become involved in interference, then consideration of the appeal or interference will be expedited by the Patent and Trademark Office, contingent upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert D. Groneberg et al	:	DECISION GRANTING
Application No. 10/823,372	:	PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 03-087-A	:	

This is a decision on the petition filed May 11, 2005, requesting that the above-identified application be accorded a filing date of April 12, 2004, rather than the presently accorded filing date of April 13, 2004

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 12, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt No. EV334705585US (which number appears on the transmittal letter for this application), but the Date-In is not clear. Further, the petition is accompanied by a copy of the relevant page of petitioner's "Express Mail Deposit Log" with the following headings: Attorney, MBHB Case Number, Envelope Contents, Person Depositing in Mailroom; Post Office Location, Date of Delivery to Post Office, Time of Delivery to Post Office, and Person Making Delivery. Unfortunately, the Express Mail number is listed on the Envelope Contents as EV334P5585US.

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. Since the "Date-In" is barely legible on the Express Mail label, an independent inquiry was made of the U.S. Postal Service which verifies acceptance of the Express Mail package bearing label No. EV334705585US (copy attached) on April 12, 2004. Accordingly, in view of the available evidence, it is concluded that the application was deposited as "Express Mail" with the US Postal Service on April 12, 2004. Accordingly, the instant application is entitled to a filing date of April 12, 2004, and has been so accorded.

The petition is granted. No fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1625 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Track/Confirm information

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BERGHOFF, LLP
300 S. WACKER DR
32ND FLOOR
CHICAGO IL 60606

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APR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,425,631	: DECISION ON REQUEST
Groneberg et al.	: FOR
Issue Date: September 16, 2008	: RECONSIDERATION OF
Application No. 10/823,377	: PATENT TERM ADJUSTMENT
Filed: April 12, 2004	: and
Atty Docket No. 03-086-A	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 17, 2008, 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 nine hundred sixty-five (965) 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 nine hundred sixty-five (965) 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 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 **nine hundred sixty-five (965)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,425,631 B2

DATED : **September 16, 2008** **DRAFT**

INVENTOR(S) : Groneberg 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 442 days.

Delete the phrase "by 442 days" and insert – by 965 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Daniel M. Herzog et al :
Application No. 10/823,402 : DECISION ON PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2316.1845US01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 24, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received in the deciding official's office within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO CA 94111

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Bamji, et al. :
Application No.: 10/823,415 :
Filed: April 12, 2004 :
Attorney Docket No.: 34270/US/2/TAL/VEJ :
For: METHOD AND SYSTEM TO DIFFERENTIALLY ENHANCE SENSOR DYNAMIC RANGE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 23, 2004 (certificate of mailing date August 18, 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 April 12, 2004 without an executed oath or declaration. On June 25, 2004, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration, filing fees, and a surcharge for their late filing within two months of the mail date of the Notice.

The present petition was timely filed in response. Petitioners submitted filing fees, a surcharge, a declaration executed by 3 of 4 joint inventors, the instant petition, and petition fee. A statement of facts by Attorney Victor E. Johnson accompanies the petition. Attorney Johnson explains that the non-signing inventor, Xinquiao Liu, was successfully mailed a copy of the application as filed and that Dr. Liu constructively refused to execute the enclosed declaration despite several attempts to obtain Dr. Liu's cooperation.

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 has not been presented. It is noted that each joint inventor's residence and post office address is all the same. Given the fact that Dr. Liu no longer works at Canesta, Inc., it is assumed that he does not receive mail at the same address as the other joint inventors.

The available inventors must execute a new declaration that lists the residence and most recent home address or mailing address for Dr. Liu. MPEP 605.03.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Dr. Liu is REQUIRED. See MPEP 409.03(a).

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 (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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DORSEY & WHITNEY LLP
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4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO CA 94111

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DEC 10 2004

OFFICE OF PETITIONS

In re Application of
Bamji, et al.
Application No.: 10/823,415
Filed: April 12, 2004
Attorney Docket No.: 34270/US/2/TAL/VEJ
For: METHOD AND SYSTEM TO DIFFERENTIALLY ENHANCE SENSOR DYNAMIC RANGE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 23, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventor, Xinqiao Liu, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, a statement of facts by Attorney Victor E. Johnson explains that Xinqiao Liu was successfully mailed a copy of the application as filed and that Dr. Liu constructively refused to execute the enclosed declaration despite several attempts to obtain his cooperation. 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 Technology Center G.A.U. 2878 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY
DEPARTMENT
1445 Ross Avenue
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DALLAS TX 75202-2799

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of

Paul A. Vaughn

Application No. 10/823,418

Filed: April 12, 2004

Attorney Docket No. 85689.19

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), January 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed March 6, 2008, which set a shortened statutory period for reply of three-months from its mailing date. A response was not received within the allowable period and the application became abandoned on June 7, 2008. A Notice of Abandonment was mailed October 7, 2008.

The Request for Continued Examination filed January 21, 2009, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3732 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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Timothy X. Gibson, Esq.
Mathews, Collins, Shepherd & Gould P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Harchekar, et al. :
Filed: April 12, 2004 : ON PETITION
Application No. 10/823,423 :
Atty. Dkt. No.: 4752-105.1 US :
:

This decision in response to the "PETITION TO REINSTATE FILING DATE," filed July 12, 2004, requesting that the above-identified application be accorded a filing date of April 12, 2004.

The application was submitted April 12, 2004. The Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") on June 25, 2004. The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence).

The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners also indicate that the drawings are part of co-pending application no. 10/051,877 filed October 25, 2001, the entire disclosure of which was fully incorporated by reference into the present application.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a

filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one process claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the Notice of Incomplete Application mailed June 25, 2004 was mailed in error and is hereby withdrawn.

Accordingly, the petition to accord the application a filing date of April 12, 2004 is GRANTED.

The application will be processed with only the papers present on filing with a filing date of April 12, 2004, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund from the Finance Office, Refund Section has been requested on petitioners' behalf.

Receipt is acknowledged of the second preliminary amendment submitted herewith seeking to amend the application to include Fig. 1-8. Petitioners can expect the preliminary amendment to be examined in due course by the examiner of record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 12, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

In re Application of :
Vijay R. Harchekar, et al. :
Application No. 10/823,423 : ON PETITION
Filed: April 12, 2004 :
Attorney Docket No. 4752-105.1 US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 13, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before May 1, 2006. On July 13, 2006, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 28, 2006

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; 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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EDWIN M. BARANOWSKI
PORTER WRIGHT MORRIS & ARTHUR L.L.P.
SUITE 3100
41 SOUTH HIGH STREET
COLUMBUS OH 43215

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OFFICE OF PETITIONS

In re Application of	:	
William M. Randle et al	:	
Application No. 10/823,442	:	DECISION GRANTING PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3994893-139698.2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of November 15, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Au 3621 to consider the RCE submitted on July 17, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 30 2009

OFFICE OF PETITIONS

In re Application of
Patrice Nazzaro
Application No. 10/823,456
Filed: April 12, 2004
Attorney Docket No. S63.2B-14416-US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Hoffmann & Baron, LLP has been revoked by the assignee of the patent application on April 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BOSTON SCIENTIFIC SCHIMED, INC
ONE SCIMED PLACE
MAPLE GROVE, MN 55311

OIPE JC101
MAY 12 2005
PATENT & TRADEMARK OFFICE

IFW

Attorney Docket No. PAP01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/823,462 Conf. No. 4595
Applicant: William S. Lovell TC/A.U.: 1724
Filed: 04/12/2004 Customer No.: 27626
For: Self-powered, wearable personal air purifier

Mail Stop: Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PETITION TO MAKE SPECIAL – AGE

Pursuant to 37 CFR §1.102(b) and M.P.E.P. §708.02(IV), Applicant respectfully requests that the above entitled matter be made special with reference to the order of examination for the reason of the undersigned Applicant's age, which is 72 years, Applicant having been born on April 23, 1933. Your consideration of this matter will be very much appreciated.

Respectfully submitted,

William S. Lovell
Reg. No. 31,978

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 23 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY UT 84101

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Walter E. RED et al.	:	
Application No. 10/823,465	:	DECISION ON PETITION
Filed: April 13, 2004	:	
Attorney Docket No. 1737.2.15	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 23, 2008, 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 24, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and fee ; (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed September 23, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2121 for appropriate action on the concurrently filed appeal brief.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. BOX 10395
CHICAGO IL 60610

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DEC 31 2007

OFFICE OF PETITIONS

In re :
Application No. 10/823,473 :
Masamichi : LETTER REGARDING
Filed: April 13, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4799 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 17, 2007. Applicant discloses that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 475 days indicated on the Determination of Patent Term Adjustment should be 280 days as the present application is subject to two terminal disclaimers.

The request for review of the patent term adjustment (PTA) is **DISMISSED** to the extent that it requests correction of the patent term adjustment.

On June 22, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 475 days. Applicant requests correction to the patent term adjustment on the basis that the application is subject to two disclaimers and that the patent term adjustment in each of the relevant patents is 280 days. Further, this application was filed on the same date as one of the applications (now patents) to which a terminal disclaimer was filed.

A review of the application history supports a conclusion that the initial Determination of Patent Term Adjustment is correct. It is noted that the terminal disclaimers were filed in this application on June 20, 2007. This has no effect on the determination of patent term adjustment set forth on any patent issuing from this application. 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As this letter was submitted as an attempt to advise the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 29 2007

Technology Center 2100

Stephen C. Glazier
KIRKPATRICK & LOCKHART PRESTON GATES & ELLIS LLP
1601 K Street, N.W.
Washington, DC 20006-1600

In re Application of: Williams, et al.
Application No. 10/823,478
Filed: April 13, 2004
For: SYSTEMS, METHODS AND DEVICES FOR A TELEMATICS WEB SERVICES INTERFACE FEATURE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed August 6, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) **Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.**

The petition filed August 6, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). For example, Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims (i.e. claims 1, 14, 20, 21 & 22) is specifically distinguishable and patentable from the references provided in requirement (d) above. Reference is made to Petitioner's statement that the reference(s) do not disclose or suggest "a web services interface in communication with a secondary system, wherein the web services interface comprises a least one processor configured to retrieve, receive, analyze and transmit data ..., ***wherein the processor is configured to process at least one servlet module stored*** ...", wherein it is noted that a comparison of claim 1 for instance, does not include the above noted highlighted limitation as stated. In addition, claim 1 of the instant application requires that the at least one processor is "configured to ***at least one of*** retrieve, analyze and transmit data ..." which is broader than the stated claim limitations (noted above) in the instant petition, which further fails to provide the necessary accuracy and specificity required under 37 CFR 1.111 (b) and (c).

Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the four references cited to be the most closely related (in the instant application), Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, for each independent-claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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United States Patent and Trademark Office
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JUN 26 2007

TECHNOLOGY CENTER 2100

Stephen C. Glazier
KIRKPATRICK & LOCKHART PRESTON GATES & ELLIS LLP
1601 K Street, N.W.
Washington, DC 20006-1600

In re Application of: WILLIAMS, et al.
Application No. 10/823,478
Filed: April 13, 2004
For: SYSTEMS, METHODS AND DEVICES FOR A TELEMATICS WEB SERVICES INTERFACE FEATURE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on March 29, 2007 of the original petition filed January 12, 2007 which was dismissed on January 29, 2007.

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.

The dismissal decision stated that the original the petition fails to adequately meet the requirement (e) as set forth supra. Those deficiencies have been corrected.

Petition to Make Special is hereby **GRANTED** because all the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file if 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.

Tod Swann
Workgroup Quality Assurance Specialist,
Tech. Center 2100
Computer Architecture, Software and Information Security
571-272-3612

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28 STATE STREET
28th FLOOR
BOSTON MA 02109-9601

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SEP 15 2008

In re Application of :
ZDENEK, Varga :
Application No. 10/823,501 : DECISION ON PETITION
Filed: April 13, 2004 : TO WITHDRAW
Attorney Docket No. **006511-00001** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 13, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **VARGA ZDENEK**
NAM. U LIPY SVOBODY 1/9
107 00 PRAHA 10-DUBEC
CZECH REPUBLIC

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Straub & Pokotylo
788 Shrewsbury Avenue
Tinton Falls, NJ 07724

Mail Date: 05/25/2010

Applicant	: Leslie Yeh	: DECISION ON REQUEST FOR
Patent Number	: 7668832	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/823,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **806** 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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IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND OR 97205

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OFFICE OF PETITIONS

In re Application of
Chang & Viswanathan
Application No.: 10/823,513
Filed: April 12, 2004
Attorney Docket No.: 1282-023/MMM
For: AUTORUN FOR INTEGRATED CIRCUIT MEMORY COMPONENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 30, 2004 (certificate of mailing date December 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 April 12, 2004 without an executed oath or declaration. On June 25, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed. This Notice required petitioner to file an executed declaration, filing fees, and a surcharge for their late filing within two months of the June 25, 2004 mail date of the Notice.

In response, on December 30, 2004 (certificate of mailing date December 27, 2004), petitioner filed a four month extension of time request and required fee, filing fees, the surcharge, the instant petition and required petition fee. A statement of facts of William Ho Chang, a co-inventor, accompanies the petition. Mr. Chang states that attempts to contact nonsigning inventor Vinaynathan Viswanathan via telephone and e-mail were fruitless.

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 $200 as specified in 37 CFR § 1.17(g), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that Mr. Viswanathan cannot be located.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

Petitioner should engage in further efforts to locate Mr. Viswanathan. Possible sources of documentary evidence are inquiries of local telephone directory, inquiries of any extant national or regional registries, telegrams, and searches of Internet databases. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

An affidavit or declaration of facts that fully describes the exact facts which are relied upon to establish that a diligent effort was made to locate the nonsigning inventor must be presented. The affidavit or declaration of facts must be signed by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

Petitioner's deposit account was charged an additional $65.00 because the late declaration/filing fee surcharge was not paid.

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: (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

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805 SW BROADWAY, #2740
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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
Chang & Viswanathan
Application No.: 10/823,513
Filed: April 12, 2004
Attorney Docket No.: 1282-023/MMM
For: AUTORUN FOR INTEGRATED CIRCUIT MEMORY COMPONENT

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47 (a) DISMISSED AS MOOT

Papers filed on August 3, 2005 (certificate of mailing date August 1, 2005) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on February 4, 2005, included a Declaration signed by the previously nonsigning inventor, Vinaynathan Viswanathan, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

After the mailing of this decision, the application will be forwarded to Technology Center 2818 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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111 SW COLUMBIA
SUITE 710
PORTLAND OR 97201

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In re Application of	:	
Chang et al.	:	
Application No. 10/823,513	:	DECISION ON PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.78(a)(6)
Atty Docket No. 1282-023/MMM	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed August 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of provisional application No. 60/462,080.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

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). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications 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 present case, the Office noted the claim for priority to prior-filed application No. 60/462,080 in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $ 1,370 surcharge submitted is unnecessary and will be refunded in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2191 for consideration by the examiner of applicant's response to non-final Office action filed August 8, 2007.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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David J. Brezner
Dorsey & Whitney LLP
Intellectual Property Department
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

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OFFICE OF PETITIONS

In re Application of	:
Hermescec, et al.	: DECISION REFUSING STATUS
Application No. 10/823,523	: UNDER 37 CFR 1.47(a)
Filed: April 12, 2004	:
Atty. Dkt. No.: A-72315-1/DJB/THR	:
For: WOOD PRODUCTS AND PROCESSES FOR THE PREPARATION THEREOF	:

This decision is in response to the petition under 37 CFR 1.47(a), filed October 28, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that inventor Branko Hermescec 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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APR 12 2005

CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York NY 10112

In re Application of :
Ira Ekhaus :
Serial No.: 10/823,524 : DECISION ON PETITION
Filed: April 12, 2004 :
For: Adjustable Exercise Ball :

This is in response to applicants' petition filed December 21, 2004, 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. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-4050 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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PO BOX 747
FALLS CHURCH VA 22040-0747

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In re Patent No. 7,276,656	:	
Issue Date: October 2, 2007	:	
Application No. 10/823,536	:	NOTICE
Filed: April 14, 2004	:	
Attorney Docket No. 0941-0945PUS1	:	

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 parent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Lawrence D. Weiss	: DECISION ON REQUEST FOR
Patent Number	: 7664670	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/823,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1476** 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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GREENBLUM & BERNSTEIN
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RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Junichi Iida	:	
Application No. 10/823,595	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. P25042	:	

This is a decision on the petition, filed April 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 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 2625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of
Igarashi et al.
Application No. 10/823,609
Filed: April 14, 2004
Attorney Docket No. 251790US90CONT

ON PETITION

This is a decision on the petition filed August 18, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that pages 31-37 of the specification were part of the originally filed application.

The application was filed on April 14, 2004. On July 29, 2004, a Notice was mailed stating that pages 31-37 of the specification did not appear to be included as part of the application filed.

The present petition alleges that pages 31-37 of the specification were filed on April 14, 2004.In support, petitioner has submitted a postcard receipt which acknowledges receipt of 41 pages of specification on April 14, 2004.[1]

The USPTO file for this application includes only 34 pages of specification and does not contain the 7 pages numbered 31-37. Based on the evidence submitted, the Office concludes the missing pages were part of the application but were later misplaced. Therefore, the petition is **granted**.

The $130 petition fee will be credited to petitioner's deposit account.

The Notice mailed July 29, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of April 14, 2004, using the application papers filed on April 14, 2004, and the copy of pages 31-37 of the specification filed on August 18, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card 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 post card in the outgoing mail. "A post card 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." M.P.E.P. § 503.

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McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Calistri-Yeh, et al. :
Application No. 10/823,617 :
Filed: April 14, 2004 :
Attorney Docket No. 055653-0016 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 20, 2008 and supplemented on February 21, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 27, 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. Applicants filed a RCE and an IDS on September 27, 2007. The RCE lacked a proper submission. Accordingly, the application became abandoned on September 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment as the submission for the previously filed improper RCE; (2) the petition fee of $ 510.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

Even though the application was abandoned, a non-final Office action was mailed on November 9, 2007. This decision reviving the above-identified application closes the gap in prosecution that occurred when the November 9, 2007 non-final Office action was issued while the application was abandoned and covers the subsequent delay in applicants' response to the November 9, 2007 non-final Office action. Per the February 21, 2008 supplemental response, applicants wish for the February 20, 2008 amendment to be considered as the reply to the November 9, 2007 non-final Office action.

This application is being referred to Technology Center AU 2164 for consideration of the amendment filed on February 20, 2008 as the reply to the November 9, 2007 non-final Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Takahashi, et al.
Application No. 10/823,618
Filed: April 14, 2004
For: STORAGE SYSTEM, METHOD OF CONTROLLING STORAGE SYSTEM, AND STORAGE DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed December 22, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed December 22, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that the independent claim 7 differs in scope from the discussion presented in the petition with respect to independent claims 1 and 4, specifically regarding the number of storage volumes and the different processes involved with the different volumes.

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. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

3/10/05

SDL: 03/04/05

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MATTINGLY, STANGER, MALUR, & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAIL

JUN 0 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Takahashi, et al.
Application No. 10/823,618
Filed: April 14, 2004
For: STORAGE SYSTEM, METHOD OF CONTROLLING STORAGE SYSTEM, AND STORAGE DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the Request for Reconsideration filed April 19, 2005, on the Petition to make Special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on December 22, 2004 and dismissed on March 14, 2005.

The Reconsideration of Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

5/24/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 05/17/05

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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DEC 16 2005

TECHNOLOGY CENTER 2100

In re Application of:
A. HARADA et al
Application No. 10/823,619
Filed: April 14, 2004
For: METHOD AND APPARATUS FOR AVOIDING JOURNAL OVERFLOW ON BACKUP AND RECOVERY SYSTEM USING STORAGE BASED JOURNALING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on August 04, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 04, 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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STAAS & HALSEY LLP
1201 NEW YORK AVENUE NW, SUITE 700
WASHINGTON, DC 20005

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In re Application of :
INAGAKI, et al. :
Application No. 10/823,634 : DECISION DISMISSING PETITION
Filed: April 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **826.1633D** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** (Emphasis added)

Unfortunately, the petition was not received by the appropriate official for a decision until after July 8, 2008, the date upon which the above-identified application issued as U.S. Patent No. 7,397,981. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The inconvenience caused petitioner in this matter is sincerely regretted. However, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent. The RCE and the information disclosure statement (IDS) will remain in the file of the above-identified application without further consideration. *See* 37 CFR 1.197(1). The $810 RCE filing fee and $130 petition fee paid on July 3, 2008 is being credited to counsel's credit card.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Patent No. 7,011,867 :
Issue Date: March 14, 2006 :
Application No. 10/823,661 : ON PETITION
Filed: April 14, 2004 :
Attorney Docket No. 024445-467 :

This is a decision on the petition filed March 13, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The request for certificate of correction filed concurrent with this petition indicated an included check for $100. However, Office records do not indicate payment of this fee. Therefore the required $100 fee under 37 CFR 1.20(a) has been charged to petitioner's deposit account.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,686	04/14/2004	Elliot D. Lewis	14917.0553USU1	5352

27488 7590 12/26/2007
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
KANE, CORDELIA P	

ART UNIT	PAPER NUMBER
2132	

MAIL DATE	DELIVERY MODE
12/26/2007	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.

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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

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DEC 27 2007

TECHNOLOGY CENTER 2100

In re Application of:
Elliot LEWIS et al.
Appl. No.: 10/823,686
Filed: April 14, 2004
For: SYSTEM AND METHODS FOR PROVIDING NETWORK QUARANTINE

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 11 December 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 11 December 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. 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 petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 11 December 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may 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, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,686	04/14/2004	Elliot D. Lewis	14917.0553USU1	5352

27488 7590 02/04/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
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EXAMINER	
KANE, CORDELIA P	

ART UNIT	PAPER NUMBER
2132	

MAIL DATE	DELIVERY MODE
02/04/2008	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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TECHNOLOGY CENTER 2100

Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Elliot LEWIS et al.
Appl. No.: 10/823,686
Filed: April 14, 2004
For: SYSTEM AND METHOD FOR PROVIDING NETWORK QUARANTINE

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 25 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 25 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. 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 petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 25 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may 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, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
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TECHNOLOGY CENTER 2100

Albert W. Vredeveld
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

In re Application of:
Lewis et al.
Appl. No.: 10/823,686
Filed: April 14, 2004
For: **System and Methods for Providing Network Quarantine**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 23 January 2009, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 25 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent and no further fee is required based on previous decision on petition dated January 31, 2008.

The test for expunging material is whether or not the information is material to the patentability of the claims. A review of the material has found that the material is not material to the patentability of the claims. Therefore, the petition is granted.
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 destroyed, the artifact folder closed and therefor the material will not be returned.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612

/Tod Swann/
WQAS, Technology Center 2400
Network, Multiplex, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,686	04/14/2004	Elliot D. Lewis	14917.0553USU1	5352

27488 7590 04/01/2009

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
KANE, CORDELIA P	

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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January 15, 2009

Christopher W. Ferguson
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3800

Patent No: 7,062,195 B2
Application No: 10/823,699
Applicant: Satoshi Kurihara, et al.
Issued: June 13, 2006
Title: **TONER SEAL MEMBER, AND PROCESS CARTRIDGE**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322 or 1.323.

Inspection of the application for the patent reveals that column 5; line 10 of the printed patent is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in this matter is hereby **denied**.

However, further consideration will be given to this matter upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee which is presently $100.00.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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Paper No. None

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of
Shigeo Tochikubo
Application No. 10/823,765
Filed: April 14, 2004
Attorney Docket No. 251960US0
Title: ELECTROLYTIC WATER PURIFIER

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b) [1], filed August 24, 2004.

The above-identified application was filed on April 14, 2004, without an oath or declaration. On June 24, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63, and a surcharge for the late filing of the oath or declaration. The Notice further indicated that the following items would be required: the basic filing fee; an English translation of the specification and a statement that the translation is accurate; the fee associated with the filing of a specification in a language other than English, and; replacement drawings. The notice set a two-month period for response.

In reply, applicant filed the petition, along with the associated fee, the basic filing fee, an English translation of the specification and a statement that the translation is accurate,

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

the fee associated with the filing of a specification in a language other than English, and replacement drawings.

Petitioner has met requirements (1) – (8) above. As such, the petition under 37 C.F.R. §1.47(b) 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, not the Declaration. 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 1700 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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JOYCE VON NATZMER
4615 NORTH PARK AVENUE, SUITE 919
CHEVY CHASE, MD 20815

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OFFICE OF PETITIONS

In re Application of :
Karen Uhlmann et al :
Application No. 10/823,784 :
Filed: April 14, 2004 :
Attorney Docket No. 3035-101 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 C.F.R. § 1.102(d)

This is a decision on the petition under 37 CFR 1.102(d), filed on January 11, 2006 to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a statement explaining the present invention's contribution to the diagnosis / prevention of cancer. "Methylation of nucleotides is a key element of epigenetic control of genomic information in mammals." "The invention is directed at the detection of the methylation status of nucleotides, such as CpG dinucleotides, and diagnosis of cancer or a predisposition therefore via such detection." 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 1634 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of :
Michael Kapolka et al. :
Application No. 10/823,804 : DECISION ACCORDING STATUS
Filed: April 12, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 03-089-01 :

This is in response to the petition filed November 26, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April 12, 2004, naming Michael Kapolka, Sam Chang, Andrew Smith, Brian Crull, Dennis Essenmacher, Andrew Ditchfield, William Bromley, Brian Carl, Gregory A. Dils, Hassanayn Machlab El-Hajj, Gregory J. Kelsey, Mark Brown, and Nik Neymeyer as joint inventors but without a signed declaration. Accordingly, on June 25, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on November 26, 2004, an oath or declaration executed by joint inventors Smith, Essenmacher, Bromley, Dils and El-Hajj, Kelsey, Brown and Neymeyer, a three month extension of time and the instant petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventors Kapolka, Chang, Crull, Ditchfield and Carl refuse to sign the oath or declaration and thus by their actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that while the application papers were sent to joint inventors Kapolka, Chang, Crull, Ditchfield and Carl, that neither has returned an executed oath or declaration. Further, the petitioners have shown that non-signing inventors Kapolka, Chang and Ditchfield have indicated on previous occasions that they would not execute

any paperwork for their previous employer, the assignee. Non-signing inventors Crull and Carl, while they have received the application papers and the request to execute the oath or declaration, have simply not returned such. Petitioners have even shown that follow-up attempts to communicate with the non-signing inventors to have them execute the oath or declaration have been unsuccessful.

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.

Please be advised that effective November 22, 2004 the fee for a petition under 37 CFR 1.47 and pursuant to 37 CFR 1.17(g) has been set at $200 instead of the fee previously set at $130.00. Deposit account no. 13-2490 has been charged in the amount of $200.00.

The application is being forwarded to Technology Center 3683 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MEDIMMUNE, LLC
Jonathan Klein-Evans
ONE MEDIMMUNE WAY
GAITHERSBURG MD 20878

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Jennifer Lynne Reed :
Application No. 10/823,810 : ON APPLICATION FOR
Filed: April 12, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. IL500US :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed February 24, 2009. Applicants submit that the correct patent term adjustment as of the date of filing of this paper is eight hundred ninety-seven (897) days. Applicants request that the initial determination of patent term adjustment of two hundred twenty-two (222) days be increased by 675 days (plus an additional day for each day from today until the patent issues). Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

[1] Applicants exclude a period of 37 days in their calculation due to appellate review.

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[2].

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALBERT W. DAVIS, JR.
6037 W. ROBIN LANE
GLENDALE, AZ 85310

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of :
Saebi, Nasser :
Application No. 10/823,838 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. FEAZ :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 14, 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 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 26, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to 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
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 2 3 2010

OFFICE OF PETITIONS

Albert W. Davis Jr
6037 W. Robin Lane
Glendale AZ 85310

In re Patent No. 6,985,832	:	
Issue Date: January 10, 2006	:	
Application No. 10/823,838	:	ON PETITION
Filed: April 13, 2004	:	
Attorney Docket No. FEA2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 11, 2010 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.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES CA 90045

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Yue-Chung Chen	:	
Application No. 10/823,847	:	DECISION GRANTING PETITION
Filed: April 14, 2004	:	UNDER 37 CFR 1.137(b)
For: MIKE 8001 INDUCTION MOTOR DESIGN	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 August 24, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2834.

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,847	04/14/2004	Yue-Chung Chen		5515

24201 7590 10/29/2008

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER	
NGUYEN, HANH N	

ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
10/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of CHEN, YUE-CHUNG
Appl. No.: 10/823,847
Filed: April 14, 2004
For: INDUCTION MOTOR HAVING THE ROTOR LOCATED WITHIN A SHELL

WITHDRAWAL OF RESTRICTION REQUIREMENT
37 CFR 1.144

This communication is in response to petitions filed 7/30/07 and 9/11/07 requesting the withdrawal of a restriction requirement made in the office action mailed 3/13/07.

Applicant's petition is dismissed as MOOT.

A review of the record indicates that the examiner has withdrawn the aforementioned restriction requirement and has mailed an action on the merits, including all of the previously withdrawn claims, on 10/8/08.

For questions concerning this decision, please contact Darren Schuberg at 571 272-2044.

John Cabeca
Director (Acting)
Patent Examining Technology Center 2800

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

JEFFRE H. KAMENETSKY, ESQ
CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 204
FORT LAUDERDALE FL 33301

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FEB 6 ,2007

Director's Office
Office of Patent Publication

In re Application of:
BURKE, BERTRAM V. :
Application No. 10/823,850 :
Filed: April 14, 2004 :
Attorney's Docket No. 1357-13U :

The Notice Of Rescinded Abandonment mailed January 24, 2007, rescinding the Notice of Abandonment mailed December 12, 2006 is **VACATED.**

The Petition Under 37 C.F.R. §1.181(a) To Withdraw Holding Of Abandonment, received in the USPTO on December 22, 2006 should not have been rescinded because of non-response of the New Notice of Allowance mailed August 11, 2006 in lieu of the RCE mailed in on May 12, 2006. A letter requesting that the issue fee payment on May 15, 2006 should have been sent to apply to the new Issue Fee due November 11, 2006.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** Abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

/Nina Motley/
Nina Motley
Quality Control Assistant
Office of the Director
Office of Patent Publications

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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JEFFRE H. KAMENETSKY, ESQ
CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Bertram V. Burke :
Application No. 10/823,850 : ON PETITION
Filed: April 14, 2004 :
Attorney Docket No. 1357-13U :

This is a decision on the petition filed March 9, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed August 11, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 12, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Chikafumi Yokoyama	:	
Application No. 10/823,853	:	DECISION GRANTING PETITION
Filed: April 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 54769US009	:	

This is a decision on the petition, filed February 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 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1722 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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Wu, Dai, and Sun
Application No. 10/823,867
Filed: April 14, 2004
Attorney Docket No. VERTE.008-102
For: JOB FLOW PETRI NET AND CONTROLLING MECHANISM FOR PARALLEL PROCESSING

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) January 27, 2005 (certificate of mailing dated January 24, 2005.)

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on April 14, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 24, 2004, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. The instant petition was filed, responsively, on January 27, 2005, along with a request fro an extension of time within the fifth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the requirement that applicant make a diligent effort to present the non-signing inventors with the application papers has not been satisfied. The instant petition indicates that the application papers were sent only to the work address for the non-signing inventor. The petition does not indicate that an effort was made to send the application papers to the residential addresses of the non-signing inventors even though the addresses were apparently available. The undersigned believes that a diligent effort to present the application papers to the non-signing inventors would entail sending the application papers to the residential address since it is available. The petition is dismissed, accordingly.

Any renewed petition must provide evidence that an effort was made to send the application papers to the non-signing inventors at their residences.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of
Wu, Dai, and Sun
Application No.: 10/823,867
Filed: April 14, 2004
Attorney Docket No: VERTE.008-102
For: JOB FLOW PETRI NET AND CONTROLLING MECHANISM FOR PARALLEL PROCESSING

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 25, 2005 (certificate of mailing dated May 17, 2005).

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on April 14, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 24, 2004, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. A petition was filed, responsively, on January 27, 2005, along with a request for an extension of time within the fifth month. The petition was dismissed by a decision mailed March 18, 2005.

Petitioner has shown that inventors Wu and Sun are either unavailable or are refusing to join the prosecution of the above-identified application after efforts were made to present the non-signing inventors with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Chuan-Jen Wu
72 Jhunguang Rd.
Hsin-Chu, Taiwan 300, R.O.C

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Wu, Dai, and Sun :
Application No.: 10/823,867 : LETTER
Filed: April 14, 2004 :
Attorney Docket No: VERTE.008-102 :
For: JOB FLOW PETRI NET AND CONTROLLING MECHANISM FOR PARALLEL PROCESSING

Dear Inventor Wu:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Tien-Hsiang Sun
1F, No. 21, Alley 16, Lane 199
Dunhua N. Rd.
Taipei, Taiwan 105, R.O.C.

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Wu, Dai, and Sun :
Application No.: 10/823,867 : LETTER
Filed: April 14, 2004 :
Attorney Docket No: VERTE.008-102 :
For: JOB FLOW PETRI NET AND CONTROLLING MECHANISM FOR PARALLEL PROCESSING

Dear Inventor Sun:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

HAYNES AND BOONE, LLP
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DALLAS, TX 75202

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OFFICE OF THE DIRECTOR
TC 3800

STEVEN B. POKOTILOW
STROOK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, NY 10038

In re application of : **DECISION ON PETITION**
George S. Gabriel et al : **TO MAKE SPECIAL**
Application No. 10/823,868 : **(APPLICANT'S AGE)**
Filed: April 13, 2004 :
For: METHOD AND SYSTEM OF PROVIDING SEALED BAGS OF FLUID AT THE CLEAN SIDE OF A LABORATORY FACILITY

This is a decision on the petition submitted on April 13, 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. Gabriel indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **Granted.**

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/01/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Joseph Vogrig	: DECISION ON REQUEST FOR
Patent Number	: 7654389	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/823,878	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **209** 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 of Patents

Theodore W. Olds
Carlson, Gaskey & Olds
400 W. Maple Road, Suite 350
Birmingham, MI 48009

MAILED

AUG 02 2005

Director's Office
Group 3700

In re Application of :
FITZPATRICK :
Serial No. 10/823,889 : Decision on
Filed April 14, 2004 : Petition
For: Leverage Handle :

A Notice of Abandonment for the above-identified application was mailed February 24, 2005. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on March 2, 2005. Applicant indicates that a timely filed amendment was received by USPTO and offers proof of two facsimile transmission statements. Further, a review of the file indicates that a response was timely received and has been entered into the file.

In view of the above, the Notice of Abandonment mailed February 24, 2005 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Young Chu
744 Rancho Circle
Fullerton CA 92835

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of :
Young Chu :
Application No. 10/823,899 : DECISION ON PETITION
Filed: April 14, 2004 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
20040413 :
Title: SAFETY BUCKLE WITH TWO :
LOCKING POINTS :
:

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on April 27, 2006.

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 November 7, 2005, 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 February 8, 2006. A notice of abandonment was mailed on April 14, 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.

2 See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

After the mailing of this decision, the Office of Patent Publications will be notified of the same so that the present application can be processed into a patent.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara, CA 95054

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of :
Chuanfu Wang, et al. :
Application No. 10/823,931 : DECISION ON PETITION
Filed: April 14, 2004 :
Atty Docket No. BYD-US2003-008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 19, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 20, 2004. On April 20, 2009, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning

of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 20, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Also, statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the

revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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NOV 13 2009

OFFICE OF PETITIONS

VENTURE PACIFIC LAW, PC
5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA, CA 95054

In re Application of :
Chuanfu Wang, et al. :
Application No. 10/823,931 : ON PETITION
Filed: April 14, 2004 :
Attorney Docket No. BYD-US2003-008 :

This is a decision on the renewed petition, filed September 10, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on May 30, 2007. In response, on April 20, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed June 10, 2009. On September 10, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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 is being referred to Technology Center AU 1751 for consideration of the response filed April 20, 2009.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

COPY MAILED

JUN 30 2004

OFFICE OF PETITIONS

In re Application of :
Stelzer et al. :
Application No. 10/823,934 : DECISION GRANTING
Filed: April 14, 2004 : PETITION
Attorney Docket No. WSTR 8465 :

This is a decision on the "PETITION TO CORRECT APPLICATION FILING DATE BASED ON INCORRECT 'DATE-IN" ENTERED BY U.S.P.S. ON EXPRESS MAIL LABEL (37 C.F.R. § 1.10(d))," filed May 7, 2004. Applicants request that the above-identified application be accorded a filing date of April 14, 2004, rather than the presently accorded filing date of April 13, 2004.

Petitioner maintains that on April 14, 2004, the application was deposited as "Express Mail" in the U.S. Postal Service. However, the USPS incorrectly entered a date-in of April 13, 2004. In support thereof, applicants submit, inter alia, a transmittal letter specifically identifying the papers being filed therewith and noting thereon the Express Mail mailing label No. "EV432654685US"; and a copy of the Express Mail mailing label.

The evidence supports a conclusion that the instant petition was filed promptly within the meaning of § 1.10(d)(1). The transmittal specifically identifies the papers being filed, is a copy of the transmittal in fact received with the application papers, and bears the Express Mail mailing label number. Thus, petitioner has shown that the "Express Mail" mailing label number "EV432654685US" was placed on the papers prior to the original mailing.

A review of the "Express Mail" mailing label reveals that it bears a handwritten date-in of April 13, 2004, but a USPS postmark of April 14, 2004. The Official USPS postmark corroborates petitioners' claim that the application papers were deposited in Express Mail service on April 14, 2004. Further, a review of the USPS's Official Track & Confirm record, available at www.usps.com, shows that the relevant Express Mail package was accepted by the USPS at 4:14 pm on April 14, 2004 (copy enclosed).

In view thereof, the petition is GRANTED.

No petition fee is required.

The Office of Initial Patent Examination (OIPE) has been directed, pursuant to this decision, to **correct the filing date to April 14, 2004**.

Telephone inquires related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of USPS Track & Confirm record

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
10/823,934	04/14/2004	3747	806	WSTR 8465	12	22	2

CONFIRMATION NO. 5288

CORRECTED FILING RECEIPT

000321
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

OC000000013156816

Date Mailed: 07/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James F. Stelzer, St. Louis, MO;
Thomas L. Newman, St. Louis, MO;

Assignment For Published Patent Application

Aerospace Filtration Systems, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/24/2004

Projected Publication Date: 10/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Engine air filter and sealing system

Preliminary Class

123

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 13 2006

Director's Office
Office of Patent Publication

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA CA 92038-0573

In re Application of :
WOLF, ERICH H. et al. :
Application No. 10/823,941 : **DECISION ON PETITION**
Filed: April 14, 2004 :
Attorney Docket No. 70830.01 :

This is a decision on the Petition, received in the United States Patent & Trademark Office (USPTO) on October 25, 2006, which is being treated as a Petition To Withdraw Holding of Abandonment under 37CFR 1.181.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) due mailed June 23, 2006. The Notice of Abandonment, mailed on October 4, 2006 indicates, "The submitted fee of $300 is insufficient. A balance of $700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 7, 2006, authorizing that the Issue Fee and the Publication Fee be charged to Deposit Account No. 50-2274. On July 7, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 163.

/Nina D. Motley/

/Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA CA 92038-0573

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APR 0 9 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wolf et al. :
Application No. 10/823,941 :
Filed: 04/14/2004 :
Attorney Docket No. 70830.01 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNDER 37 CFR 1.137(a)," filed December 3, 2006.

The application became abandoned on September 24, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) mailed on June 23, 2006, which set a three (3) month statutory period for reply. On July 7, 2006, petitioners submitted a Fee(s) Transmittal form, authorizing the USPTO to charge the issue and publication fees to counsel's deposit account. The deposit account, however, did not contain a sufficient balance to charge the issue fee. On October 4, 2006, the Office mailed a Notice of Abandonment. On October 25, 2006, petitioners filed a petition to withdraw the holding of abandonment, which was dismissed by the decision of November 13, 2006. On December 3, 2006, petitioners filed the present petition.

In the present petition, petitioners asserted:

> Attorney for the Application had a large number of transactions under his Deposit Account during the month of July (see Exhibit C of the Petition dated October 25, 2006). On July 10, 2006 a publication fee of $300.00 for patent application 10/823,941 was charged to the Attorney's Deposit Account. A review of this account on this day shows that the issue could have been charged instead of the publication fee and the publication fee charge later (even the very next day). Also, it is unknown by this Attorney or others what day charges will be made to our Deposit Accounts and in our

> experience, there is no standard policy regarding this issue. On July 11, the Attorney's Deposit Account was replenished with $999.00. A total of $9499 was replenished during this month in this sole practitioner's Deposit account which maintained an ending balance of $2013,98, which was sufficient for issue fee of $700.00.

Petition pp. 2-3. 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.
>
> (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 was unavoidable; and,
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d).

This petition did not meet requirement (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" 35 U.S.C. § 133. 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).

Petitioners' arguments have been considered, but are not persuasive. A close review of Office financial records reveals that on July 7, 2006, the deposit account balance fell below the $1,000.00 amount required for payment of both the issue and publication fees, before being replenished. Specifically, on July 7, 2006, the deposit account maintained a balance of $437.98. As such, insufficient funds were in the deposit account at time the Office attempted to charge the issue fee.

Pursuant to 37 CFR 1.25(a),

> A minimum deposit of $1,000 [in the deposit account] is required for paying any fee due or in ordering any services offered by the Office. . . . At the end of each month, a deposit account statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $1,000.

37 CFR 1.25(b) states that the issue and publication fees may be charged against the deposit account if sufficient funds are on deposit to cover such fees. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee. Id. The Office expects that an

applicant will take reasonable precautions in all cases to avoid overdrafts. MPEP 509.01.

While the Office attempts to notify an applicant of any fee deficiency in a manner permitting a timely correction, the Office is under no obligation to do such. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction). Nevertheless, the Office provided counsel with monthly deposit account statements for this application, which showed that the Office only charged the $300.00 publication fee (not the issue fee) during the three-month statutory period for reply.

An applicant is ultimately responsible for ensuring that a proper and timely reply to an outstanding Office action is file with the USPTO. Furthermore, it is an applicant's responsibility to take reasonable precautions in all cases to avoid overdrafts and to make certain that the deposit account contains the required minimum deposit of $1,000.00 when authorizing the payment of any fees due.

As petitioners did not ensure that an adequate balance was present to pay the issue fee, the application was properly held abandoned. Furthermore, petitioners' failure to keep sufficient funds in the deposit account constitutes an avoidable mistake.

Petitioners have 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 under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioners may wish to seek relief by filing a petition under

37 CFR 1.137(b) on the basis of unintentional delay, rather than a renewed petition under 37 CFR 1.137(a).

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 was unintentional; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

Receipt of the issue and publication fees is acknowledged. The duplicate charge of $300.00 for the publication fee on October 25, 2006, will be credited to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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www.uspto.gov

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA CA 92038-0573

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Wolf et al. :
Application No. 10/823,941 : ON PETITION
Filed: 04/14/2004 :
Attorney Docket No. 70830.01 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNDER 37 CFR 1.137(b)," filed April 13, 2007.

The application became abandoned on September 24, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) mailed on June 23, 2006, which set a three (3) month statutory period for reply. On July 7, 2006, petitioners submitted a Fee(s) Transmittal form, authorizing the USPTO to charge the issue and publication fees to counsel's deposit account. The deposit account, however, did not contain a sufficient balance to charge the issue fee. On October 4, 2006, the Office mailed a Notice of Abandonment. On October 25, 2006, petitioners filed a petition to withdraw the holding of abandonment, which was dismissed by the decision of November 13, 2006. On December 3, 2006, petitioners filed a petition under 37 CFR 1.137(a), which was dismissed by the decision of April 9, 2007. On April 13, 2007, petitioners filed the present petition.

Petitioners have met the requirement under 37 CFR 1.137(b). 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/18/06

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/823943** Patent No.: **7021455**

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: _____

SUPERVISORY PATENT EXAMINER

SPE 3651 **Art Unit**

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OFFICE OF PETITIONS

In re Application of :
William D. Sigworth :
Application No. 10/823,953 :
Filed: April 13, 2004 :
Attorney Docket No. 0176-PA-CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 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 March 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 June 24, 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). Accordingly, since the $2230 extension of time submitted with the petition on November 1, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1796 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of
Jiang, et al.
Application No. 10/823,963
Filed: April 14, 2004
Attorney Docket No.A369-CIP

: DECISION ON APPLICATION
: FOR PATENT TERM
: ADJUSTMENT

This is a decision on the "Application for Patent Term Adjustment under 37 CFR 1.705(b)" filed February 9, 2006, requesting that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicant requests that the initial determination of patent term adjustment be corrected from forty-four (44) days to seventy-three (73) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PTA screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is seventy-three (73) days. A copy of the updated PAIR screen, showing the correct determination is enclosed.

BACKGROUND

On January 24, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 44 days.

In response, on February 9, 2006, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment (PTA) with the payment of the fee set forth in 37 CFR 1.18(e). Applicants assert that the correct number of days of PTA at the time of the mailing of the Notice of Allowance was 73 days. Applicants further assert that the patent term adjustment should not have been reduced by 29 days, pursuant to 37 CFR 1.704(c). The record reflects that a non-final Office action was mailed on August 26, 2005, and that applicant filed a response on October 3, 2005, that contained only six pages. Applicant maintains that the first response filed on October 3, 2005, was incomplete because of a malfunction of applicants' facsimile machine, but that applicant filed a complete response on October 3, 2005, that was received by the PTO. The record reflects hat the first incomplete response was made of record and a Notice of Non-Compliant Amendment was issued therefrom on October 11, 2005, notwithstanding the

[1] PALM records indicate that the issue fee payment was received on May 2, 2006.

transmission of a complete reply later on October 3, 2005. The amendment was filed again on November 1, 2005, in response to the Notice of Non-Compliant Amendment. Applicant asserts that the reduction of the patent term for applicant delay is not warranted because the amendment correcting the omission was filed October 3, 2005.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

RELEVANT STATUTES AND REGULATIONS

37 CFR § 1.704(a) provides that:

The period of adjustment of the term of a patent under § 1.703(a) through (e) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (processing or examination) of the application.

37 CFR § 1.704(c)(7) and (8) provide that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to extent that the periods are not overlapping:

(7) Submission of a reply having an omission (§ 1.135(c)) in which case the period for adjustment set forth in § 1.703 shall be reduced by the number of days , if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

OPINION

Applicant's argument and evidence have been considered in light of the application history. It has been determined that the initial period of adjustment pursuant to § 1.702(a)(1) was incorrect. The record reflects that the non-final Office action was mailed on August 26, 2005, with an amendment being filed responsively on October 3, 2005. The amendment that was entered into the record only contained six pages and was later deemed to be incomplete. The evidence presented by the applicant demonstrates that a second amendment consisting of eleven

pages correcting the omission of the first amendment was also filed on October 3, 2005, although it was not entered into the record[2]. It is noted that the amendment was filed again on November 1, 2005, in response to a Notice of Non-Compliant Amendment mailed October 11, 2005. The period for reduction of the patent term is zero (0) days because the omission in the first reply filed October 3, 2005, was corrected by a reply filed on the same day and the supplemental reply filed November 1, 2005, was expressly requested by the examiner.

CONCLUSION

In view thereof, the petition is GRANTED.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Following revival of the application pursuant to 37 CFR 1.137(b)[3], the application file will be forwarded to the Office of Patent Publications for timely 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/ or reduction for applicant delay.

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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[2] It is noted that a copy of the Auto-Reply Facsimile Transmission sheet was filed with the petition demonstrating that an amendment consisting of eleven pages was successfully transmitted on October 3, 2 005.

[3] It is noted that the application is currently abandoned for failure to timely pay the issue fee. The petition under 37 CFR 1.137(b), filed May 2, 2006, is noted.

PTA Calculations for Application: 10/823963			
Application Filing Date:	04/14/2004	PTO Delay (PTO):	73
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	73
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
33	07/27/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
26	01/24/2006	MAIL NOTICE OF ALLOWANCE			
25	01/24/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
24	01/23/2006	ISSUE REVISION COMPLETED			
23	01/23/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	01/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	01/19/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	01/23/2006	NOTICE OF ALLOWABILITY			
19	11/09/2005	DATE FORWARDED TO EXAMINER			
18	11/01/2005	RESPONSE AFTER NON-FINAL ACTION		29	15
17	10/11/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
16	10/06/2005	DATE FORWARDED TO EXAMINER			
15.1	10/03/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
15	10/03/2005	RESPONSE AFTER NON-FINAL ACTION			
14	08/26/2005	MAIL NON-FINAL REJECTION	73		-1
13	08/24/2005	NON-FINAL REJECTION			
12	08/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	01/10/2005	MISCELLANEOUS INCOMING LETTER			
10	07/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	07/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	06/24/2004	APPLICATION RETURN FROM OIPE			
7	06/24/2004	APPLICATION RETURN TO OIPE			

6	06/24/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/25/2004	APPLICATION IS NOW COMPLETE			
4	05/17/2004	CLEARED BY OIPE CSR			
3	05/17/2004	CASE CLASSIFIED BY L&R			
2	04/23/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/14/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Guangqiang Jiang et al	:	
Application No. 10/823,963	:	DECISION GRANTING PETITION
Filed: April 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. A369-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 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 April 24, 2006, as required by the Notice of Allowance and Fee(s) Due mailed January 24, 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 and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 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
10/823,973	04/14/2004	1614	1294	AM-101323USA		30	7

CONFIRMATION NO. 5335

CORRECTED FILING RECEIPT

OC000000013806032

38199
HOWSON AND HOWSON
CATHY A. KODROFF
ONE SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE, PA 19477

Date Mailed: 09/23/2004

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)

James J. Gibbons JR., Westwood, NJ;
Gary Dukart, Ambler, PA;
Matthew L. Sherman, Newton, MA;

Assignment For Published Patent Application

Wyeth, Madison, NJ

Power of Attorney: The patent practitioners associated with Customer Number **38199**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/464,498 04/22/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/823,973

Projected Publication Date: 12/23/2004

Non-Publication Request: No

Early Publication Request: No

Title

Antineoplastic agents

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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LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Christopher J. Diorio, et al. :
Application No. 10/823,977 : DECISION ON REQUEST
Filed: April 13, 2004 : TO WITHDRAW
Attorney Docket No. 6928P001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed October 28, 2004.

The request is **NOT APPROVED** as moot.

The request was signed by Robert B. O'Rourke on behalf of himself and all the other attorneys/agents listed. However, a review of the file record indicates that the assignee of the patent application revoked all previous powers of attorney on July 15, 2005. Accordingly, the request to withdraw under 37 CFR §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.

There is an outstanding Office action mailed May 3, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/IMPINJ
PO BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Nauta et al. :
Application No. 10/823,978 : ON PETITION
Filed: 14 April, 2004 :
Attorney Docket No. U 015133-0 :

This is a decision in reference to the petition under 37 CFR 1.181 filed on 26 June, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 13 October, 2005, for failure to submit a proper response to the final Office action mailed on 12 July, 2005, which set a three (3) month shortened statutory period for reply. A reply was filed on 5 October, 2005, but the reply did not place the application in *prima facie* condition for allowance. An Advisory Action was mailed on 31 October, 2005. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 March, 2006.

Petitioners assert that a proper reply was filed on 5 October, 2005, in that the reply included a "Request for New Action".

The showing of record is insufficient to withdraw the holding of abandonment.

The showing of record is that a proper reply to the final Office action was not timely filed. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner previously determined that the amendment filed on 5 October, 2005, does not place the case in *prima facie* condition for allowance.

In this case, petitioner submitted an amendment after final rejection. However, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petition of the duty of taking appropriate action to save the application from abandonment.

As petitioner did not timely file a proper reply, application was properly held abandoned.

Petitioner may wish to consider filing a petition to revive the application, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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[1] 37 CFR 1.181(f).

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Jun-07

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Nauta et al. :
Application No. 10/823,978 : ON PETITION
Filed: 14 April, 2004 :
Attorney Docket No. U 015133-0 :

This is a decision in reference to the "RENEWED REQUEST TO WITHDRAW HOLDING OF ABANDONMENT and REPLY TO DECISION ON PETITION" filed on 12 September, 2006.

The petition is again **DISMISSED**.

This application became abandoned on 13 October, 2005, for failure to submit a proper response to the final Office action mailed on 12 July, 2005, which set a three (3) month shortened statutory period for reply. A reply was filed on 5 October, 2005, but the reply did not place the application in *prima facie* condition for allowance. An Advisory Action was mailed on 31 October, 2005. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 March, 2006. The petition filed on 26 June, 2006, was dismissed on 6 September, 2006.

Petitioners again assert that the holding of abandonment should be withdrawn because the final Office action is "improper".

Petitioners' argument has been considered, but is not persuasive.

The showing of record is insufficient to withdraw the holding of abandonment.

As stated previously, the showing of record is that a proper reply to the final Office action was not timely filed. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner

previously determined that the amendment filed on 5 October, 2005, does not place the case in *prima facie* condition for allowance.

In this case, petitioner submitted an amendment after final rejection. However, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment.

As petitioner did not timely file a proper reply, the showing of record application was properly held abandoned.

Petitioner should note that MPEP 1002.02(c)(3) prescribes the filing of petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR 1.181 involving any *ex parte* action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for, as for example (a) prematureness of final rejection, MPEP § 706.07(c).

Alternatively, petitioner may wish to consider filing a petition to revive the application, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] 37 CFR 1.181(f).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

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FEB 01 2010

In re Application of :
Yuji OTA, et *al.* :
Application No. 10/823,994 : DECISION GRANTING PETITION
Filed: April 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **09657/0200614-US0** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3765 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.*

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

LOTUS AND RATIONAL SOFTWARE
David A. Dagg, Esq.
44 Chapin Road
Newton, MA 02459

Mail Date: 04/20/2010

Applicant	: A. Julie Kadashevich	: DECISION ON REQUEST FOR
Patent Number	: 7636918	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1563** 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.

JPE
AUG 01 2005
PATENT & TRADEMARK OFFICE

Attorney's Docket No. NG-32020(1) *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Donald R. Krause et al.

Application No.: 10/824,003 Group No.: 1762
Filed: April 14, 2004 Examiner: Unknown
For: Selectively Formed Lenticular Images

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

Mailing

■ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 CFR 1.8(a)

■ with sufficient postage as first class mail ☐ **37 CFR 1.10** As "Express Mail Post Office to Addressee" Mailing Label No.

Transmission

☐ transmitted by facsimile to Fax No.: addressed to Examiner at the Patent and Trademark Office.

Date: July 28, 2005 Jill L. Hauk

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTENTION: Group Director, Group 1762 (M.P.E.P., section 1002.02(c))

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. section 1.102(c) AND M.P.E.P. section 708.02 IV)

Applicant, Roger J. Heathcote, hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is applicant's birth certificate.

No fee is required with this petition, in accordance with 37 C.F.R. section 1.102(c).

Date: 7/27/05

Reg. No.: 46992
Tel. No.: 414-273-2100
Customer No.: 022202

Thomas J. Pienkos
Whyte Hirschboeck Dudek S.C.
555 East Wells Street, Suite 1900
Milwaukee, WI 53202

MKE/1057222.1

(Petition to Make Special Because of Applicant's Age--page 1 of 1)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

AUG 11 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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SEP 25 2006
OFFICE OF PETITIONS

In re Patent No. 7,030,628	:	
Application No. 10/824,010	:	
Filing Date: April 14, 2004	:	
Issue Date: April 18, 2006	:	
Inventor: Sadao Kawata	:	DECISION ON PETITION
Attorney Docket Number: 9281-4792	:	37 C.F.R. §1.182
Title of Invention: METHOD AND DEVICE FOR EVALUATING CHARGE POTENTIAL	:	

This is a decision on the petition filed June 1, 2006, pursuant to 37 C.F.R. §1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/824,010 matured into U.S. Patent No. 7,030,628 on April 18, 2006. The electronic records further reveal that on that same day, the Patent Grant was mailed to the address of record.

With the present petition, Petitioner has explained that the original Letters Patent has been lost.

Accordingly, the petition is **GRANTED**. Petitioner's Deposit Account has been charged in the amount of $400.00.

The Publishing Division is directed to issue duplicate Letters Patent. The Publishing Division will be made aware of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded

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

---

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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ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

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FEB 10 2009

OFFICE OF PETITIONS

In re Application of :
McDaniel et al. :
Application No.: 10/824024 : ON PETITION
Filing or 371(c) Date: 04/14/2004 :
Title of Invention: :
METHODS OF WELL STIMULATION :
DURING DRILLING OPERATIONS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 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 November 25, as required by the Notice of Allowance and Fee(s) Due, mailed August 25, 2008. Accordingly, the date of abandonment of this application is November 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee; (2) the petition fee; 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 matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: BAKER BOTTS L.L.P.
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/23/2010

Applicant	: Richard P. Merry	: DECISION ON REQUEST FOR
Patent Number	: 7645426	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/824,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1133** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ARTHUR Z. BOOKSTEIN
K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Dorn et al.	:	DECISION ON PETITION
Application No. 10/824,033	:	TO WITHDRAW
Filed: April 14, 2004	:	FROM RECORD
Attorney Docket No. 14673-069US	:	

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 26, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 21, 2006 the power of attorney to K&L Gates LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Proskauer Rose LLP
1001 Pennsylvania Ave, N.W.,
Suite 400 South
Washington DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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	:	
Guinn et al.	:	
Application No. 10/824,034	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. PC11716B	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL 15 2005

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED.**

The international filing date is corrected to **17 May 2002.** The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED.**

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
STEPHEN H. DOCTER
MCDONNELL BOEHNEN HULBERT & BERGHOFF
SUITE 3200
CHICAGO, ILLINOIS 60606

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.5(c))

Date of mailing *(day/month/year)*	27 JAN 2005
Applicant's or agent's file reference: 02-312-PCT;600.019	IMPORTANT NOTIFICATION
International application No.: PCT/US02/15876	International filing date *(day/month/year)*: 17 May 2002
Priority date *(day/month/year)*: 18 May 2001	
Applicant: SIRNA THERAPEUTICS, INC.	
Title of the invention: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY	

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

[X] was transmitted to the International Bureau on 20 June 2002.

[ ] has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

[ ] because the necessary national security clearance has not yet been obtained.

[ ] because *(reasons to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION Completed by: JM

[ ] Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

[ ] License for foreign transmittal not required. 37 CFR 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

[X] Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 15 June 2002 (date):

[ ] 37 CFR 5.15(a) [X] 37 CFR 5.15(b)

Name and mailing address of the receiving Office: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450	Authorized officer: Richard Ross RR
Facsimile No. 703-305-3230	Telephone No. 571-272-3296

Form PCT/RO/105 (July 1992)

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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EDWARDS ANGELL PALMER & DODGE LLP
P. O. BOX 55874
BOSTON, MA 02205

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Bryan Gerard Mackay et al :
Application No. 10/824,042 : DECISION GRANTING PETITION
Filed: April 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 59484 (49357) :

This is a decision on the petition, filed December 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 November 1, 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 2162 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\dec11\824042.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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APR 0 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of:
Christopher J. Diorio, et al.
Application No. 10/824,049
Filed: April 13, 2004
For: METHOD AND APPARATUS TO CONFIGURE AN RFID SYSTEM TO BE ADAPTABLE TO A PLURALITY OF ENVIRONMENTAL CONDITIONS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on November 1, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

NOV 22 2005

TECHNOLOGY CENTER 2100

In re Application of:
CABRERA, ET AL.
Application Serial No.: 10/824,068
Filed: April 13, 2004
For: **VOLUME CONFIGURATION DATA ADMINISTRATION**

DECISION ON
PETITION *under 37 CFR 1.102*

This is a decision on the petition, filed on November 14, 2005 under MPEP 708.01(I), requesting an expedited action on the merits. This petition has been considered as a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

This application is a continuation of SN 10/390,943 filed March 17, 2003 which is a continuation of 09/450,300 filed November 29, 1999.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, ***including those which, by relation to a prior United States application, have an effective pendency of more than 5 years***. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **Granted**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of

Cabrera, et al.

Application No. 10/824,068

Filed: April 13, 2004

Attorney Docket No. MS128810.03/40062.139USC2

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on July 24, 2007.

The petition is **granted**.

This application was held abandoned on September 5, 2006, after it was believed that no response was received to the Notice of Non-Compliant Amendment mailed August 4, 2006. The notice allowed a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was not received and the application became abandoned on September 5, 2006.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment, or termination of proceedings, is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is withdrawn accordingly.

The application file is being forwarded to the Office of Initial Patent Examination for further processing, including remailing of the "Notice of Non-Compliant Amedment" and resetting of the period for reply thereto.

Questions 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Christopher J. Diorio et al :
Application No. 10/824,070 : DECISION ON PETITION
Filed: April 13, 2004 : TO WITHDRAW
Attorney Docket No. 6928P008 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 28, 2004.[1]

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robert B. O'Rourke and all the attorneys/agents of record have been revoked by the assignee of the patent application on July 15, 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 applicants.

This application is being referred to Technology Center AU 2612.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN LUNDBERG WOESSNER & KLUTH/IMPINJ
PO BOX 2938
MINNEAPOLIS, MN 55402

[1] The instant request was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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DEC 17 2008

In re Patent No. 7,407,660 :
Issued: August 5, 2008 : LETTER REGARDING PTA
Application No. 10/824,075 :
Filed: April 14, 2004 :
Atty. Dkt. No.: P2014R1 :

This letter is in response to the "RECALCULATION OF PATENT TERM ADJUSTMENT," filed May 6, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 24, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 522 days as of the time of allowance. The application issued as U.S. Pat. No. 7,407,660 on August 5, 2008, prior to the rendering of a letter concerning the patent term adjustment. Applicants indicated that the correct patent term adjustment at the time of allowance was 481 days.

The correct Patent Term Adjustment ("PTA") at the time of the issuance is 478 days.

As reflected in the Determination of Patent Term Adjustment mailed April 24, 2008, an adjustment of 553 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

The adjustment was properly reduced 31 days in accordance with 37 CFR 1.704(b) in connection with the reply to the non-final Office action filed August 10, 2007.

At the time of allowance, the Office neglected to assess a reduction of three days in accordance with 37 CFR 1.704(b) in connection with the reply filed September 27, 2004 in response to the Notice to File Missing Parts (Notice) mailed June 24, 2004. The reduction commenced September 25, 2004, the day after the date that is three months after the date that the Notice was mailed, and ended September 27, 2004, the date that the reply was filed.

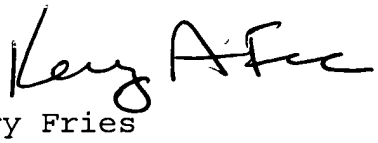
Further, at the time of allowance, the Office neglected to assess a reduction of 41 days in accordance with 37 CFR 1.704(b) in connection with the reply filed March 4, 2008 in response to the final Office action mailed October 23, 2007. The reduction commenced January 24, 2008, the day after the date that is three months after the date that the final Office action was mailed, and ended March 4, 2008, the date that the reply was filed.

Accordingly, at the time of issuance, the application was entitled to an adjustment 478 days (adjustments totalling 553 days less reduction totalling 75 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

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 478 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,407,660 B2
DATED	:	August 5, 2008
INVENTOR(S)	:	Gerritsen, 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 522 days

Delete the phrase "by 522 days" and insert – by 478 days--

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 12:00:25

PTA Calculations for Application: 10/824075			
Application Filing Date:	04/14/2004	PTO Delay (PTO):	553
Issue Date of Patent:	08/05/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	478
PTO Delay Adjustment:	-44		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		44	
87.5	07/16/2008	PTA 36 MONTHS			
87	08/05/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
86	07/01/2008	EXPORT TO FINAL DATA CAPTURE			
85	06/27/2008	FINISHED INITIAL DATA CAPTURE			
84	06/30/2008	DISPATCH TO FDC			
83	05/22/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
82	05/21/2008	ISSUE FEE PAYMENT VERIFIED			
81	05/21/2008	ISSUE FEE PAYMENT RECEIVED			
80	05/12/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
79	04/28/2008	EXPORT TO INITIAL DATA CAPTURE			
78	04/24/2008	MAIL NOTICE OF ALLOWANCE			
77	04/23/2008	ISSUE REVISION COMPLETED			
76	04/23/2008	DOCUMENT VERIFICATION			
75	04/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	04/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
73	04/23/2008	NOTICE OF ALLOWABILITY			
67	03/15/2008	DATE FORWARDED TO EXAMINER			
66	03/04/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
65	03/15/2008	DATE FORWARDED TO EXAMINER			
64	03/04/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
63	03/15/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

62	03/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
61	03/04/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
60	10/23/2007	MAIL FINAL REJECTION (PTOL - 326)			
59	10/22/2007	FINAL REJECTION			
58	08/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	08/14/2007	DATE FORWARDED TO EXAMINER			
56	08/10/2007	RESPONSE AFTER NON-FINAL ACTION		31	52
55	08/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	08/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	08/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	04/10/2007	MAIL NON-FINAL REJECTION			
51	04/02/2007	NON-FINAL REJECTION			
50	01/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	02/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	11/10/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	01/30/2007	DATE FORWARDED TO EXAMINER			
46	01/18/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
45	12/19/2006	MAIL RESTRICTION REQUIREMENT	553		-1
44	12/14/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
43	01/20/2006	REFERENCE CAPTURE ON IDS			
42.7	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	08/04/2005	MISCELLANEOUS INCOMING LETTER			
40.7	02/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	02/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39.7	11/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	11/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

38	09/27/2004	PRELIMINARY AMENDMENT			
37	05/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	02/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	09/27/2004	PRELIMINARY AMENDMENT			
32	02/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	11/10/2004	REFERENCE CAPTURE ON IDS			
29	10/26/2004	APPLICATION RETURN FROM OIPE			
28	10/26/2004	APPLICATION RETURN TO OIPE			
27	10/26/2004	APPLICATION RETURN FROM OIPE			
26	10/26/2004	APPLICATION IS NOW COMPLETE			
25	09/24/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
24	10/22/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
23	10/22/2004	APPLICATION RETURN TO OIPE			
22	10/22/2004	APPLICATION RETURN FROM OIPE			
21	10/22/2004	APPLICATION IS NOW COMPLETE			
17	10/22/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	10/22/2004	APPLICATION RETURN TO OIPE			
15	10/21/2004	APPLICATION DISPATCHED FROM OIPE			
14	10/22/2004	APPLICATION IS NOW COMPLETE			
11	04/14/2004	CLAIM PRELIMINARY AMENDMENT			
9	09/24/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	09/24/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/06/2004	ERROR(S) IN CRF CORRECTED BY STIC			
5	05/26/2004	CLEARED BY L&R (LARS)			
4	05/19/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/19/2004	CASE CLASSIFIED BY OIPE			
2	04/25/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/14/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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OFFICE OF PETITIONS

In re Application of :
Pellerin et al. :
Application No. 10/824,109 :
Filed: April 14, 2004 :
Attorney Docket No. 60,568-034 :
For: Valve Stem Installation System And Method Of Installing Valve Stem :

Decision According Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 14, 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 petition fee of $130 has been charged to deposit account no. 08-2789.

Technology Center 3726 will be informed the declaration has been accepted without the signature of inventor Sinké.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 28 2010

OFFICE OF PETITIONS

PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

In re Application of	:	
Gregory ASHTON, et al	:	
Application No. 10/824,121	:	DECISION ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 9522	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 8, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

The Office acknowledges the RCE and fee filed with the petition dated February 12, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to Technology Center Art Unit 3761 for processing of the RCE.

/dcg/
Diane C. Goodwyn
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

MAR 16 2005

CINDY A. LYNCH
CONOR MEDSYSTEMS, INC.
1003 HAMILTON COURT
MENLO PARK CA 94025

In re Application of	:	
John F. Shanley	:	
Serial No.: 10/824,124	:	DECISION ON PETITION
Filed: April 13, 2004	:	
For: Expandable Medical Device With S-Shaped Bridging Elements	:	

This is in response to applicants' petition filed April 13, 2004, 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. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

/Richard A Bertsch/

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jackson Walker L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio TX 78205

COPY MAILED
FEB 16 2010

In re Patent No. 7,048,413	:	
Issue Date: May 23, 2006	:	
Application No. 10/824,142	:	NOTICE
Filed: April 14, 2004	:	
Attorney Docket No. P-3641.279	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 20, 2009. 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. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

MAILED

MAR 19 2010

OFFICE OF PETITIONS

In re Application of
Kardosz et al.
Application No. 10/824,165
Filed: April 14, 2004
Attorney Docket: ERN-TSH-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Michael O. Scheinberg on behalf of all practitioners of record associated with Customer Number 25784.

Customer Number 25784 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: TIMOTHY KARDOSZ
370 GUSTAV LANE
SAN MARCOS, TX 78666

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/824,165	04/14/2004	Timothy J. Kardosz	ERN-TSH-001

CONFIRMATION NO. 6340

25784
MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

POWER OF ATTORNEY NOTICE

OC000000040667796

Date Mailed: 03/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2010.

- 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.

/atkelley/

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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LARSON, NEWMAN, ABEL, POLANSKY & WHITE, L
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Primm, Michael	:	DECISION ON PETITION
Application No. 10/824,169	:	TO WITHDRAW
Filed: April 14, 2004	:	FROM RECORD
Attorney Docket No. 1017-0036US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 34456 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES
SUITE 265
AUSTIN TX 78746

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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NOV 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Baker Botts, LLP
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980

In re application of : **DECISION ON PETITION**
Chitra Jain et al. : **TO MAKE SPECIAL**
Application No. 10/824,178 : **(ACCELERATED**
Filed: April 14, 2004 : **EXAMINATION)**
For: SYSTEM AND METHOD FOR PROVIDING PERSONALIZED CUSTOMER ASSISTANCE USING A FINANCIAL CARD HAVING AN RFID DEVICE

This is in response to the petition filed on April 14, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

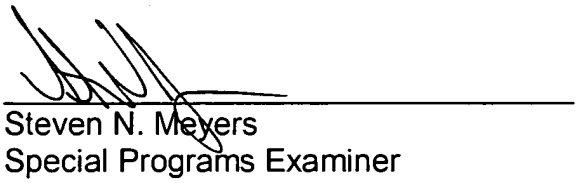
The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated 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.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/snm: 11/15/04

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ALICE O. MARTIN
BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
MCLEOD, et al. :
Application No. 10/824,194 : DECISION ON PETITION
Filed: April 14, 2004 : TO WITHDRAW
Attorney Docket No. **32527-95900** : 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 7, 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 Alice O. Martin, the sole attorney of record. Alice O. Martin has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Rima McLeod at the address indicated below. There is an outstanding Office action mailed November 6, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RIMA MCLEOD**
THE UNIVERSITY OF CHICAGO
5841 S. MARYLAND AVE, S206 MC2114
CHICAGO, IL 60637

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU, CA 90265

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AUG 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel YAP, et al	:	
Application No. 10/824,197	:	DECISION ON PETITION
Filed: April 13, 2004	:	
Attorney Docket No. 020404	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 6, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) a 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 2613 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2008.

Thurman K. Page
Petitions Examiner
Office of Petitions

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JJGJR.: 04-07

Paper No: __

MALLOY & MALLOY, P.A.
2800 S. W. Third Avenue
Historic Coral Way
Miami FL 33129

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APR 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Clarke	:	
Application No. 10/824,206	:	DECISION
Filing Date: 14 April 2004	:	
Attorney Docket No.: 1.022-A.03	:	

This is a decision on the petition filed on 23 January, 2007, 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 final Office action mailed on18 April, 2006, with reply due absent extension of time on or before 18 July, 2006;

- on 23 October, 2006, Petitioner filed over an 198 October, 2006, certificate of mailing, *inter alia*, an after-final amendment, which Petitioner as one registered to practice before

the Office is aware is not of right and was not a proper reply,[1] and the Examiner mailed an Advisory Action on 20 November, 2006;

- on 18 December, 2006, Petitioner again filed, *inter alia*, an after-final amendment, which Petitioner as one registered to practice before the Office is aware is not of right and was not a proper reply,[2] and the instant application went abandoned by operation of law after midnight 18 October, 2006;

- the Office mailed a Notice of Abandonment on 21 December, 2006;

- on 23 January, 2007, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination (RCE) with fee and pointed to the prior-after-final amendments as the submission under 37 C.F.R.§1.114, and Petitioner has made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] 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.[10]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone

---

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] 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).

[10] 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.

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Leng : ON PETITION
Application No. 10/824,215 :
Filed: April 14, 2004 :
Attorney Docket No. 20341-73747 :
For: TABLE TOP

This decision addresses the petition under 37 CFR 1.47(b), filed December 22, 2004 and supplemented on January 7, 2005.

The petition under 37 CFR 1.47(b) is **granted**.

Petitioner has shown that the non-signing inventor, Lu Hao Leng, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Richard B. Lazarus establishes that the inventor was mailed, *inter alia*, the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Nathan Heisey, an employee of Cosco Management, Inc. (COSCO), a party in interest, has provided a declaration that states Mr. Leng's representative, Mr. Martin Yang, told him that Mr. Leng would not sign the declaration. In addition, petitioner has shown that COSCO has a proprietary interest in the above-identified application with the copy of the executed assignment/agreement showing that the inventor had an obligation to assign any patent rights to COSCO. 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.

The petition under 37 CFR 1.47(b) is **granted**. 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.

Regarding finances, petitioner submitted $1,890.00 for a four month extension of time, the late declaration surcharge, and the petition fee. The fee owed is $1,590.00 (4 month EOT) + $130.00 (surcharge) + $200.00 petition fee OR $1,920.00. Therefore, pursuant to petitioner's authorization, deposit account no. 10-0435 was charged the $30.00 balance.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-

signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries 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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United States Patent and Trademark Office
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LU HAO LENG
ROOM 312, NO. 170, DANUE ROAD
SIMING DISTRICT
XIAMEN CITY, FUJIAN PROVINCE 361003
CHINA

COPY MAILED

JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Leng : LETTER
Application No. 10/824,215 :
Filed: April 14, 2004 :
Attorney Docket No. 20341-73747 :
For: TABLE TOP

Dear Mr. Leng:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the 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: BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
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OFFICE OF PETITIONS

In re Application of :
LENG, Lu Hao. :
Application No. 10/824,215 :
Filed: April 14, 2004 :
Attorney Docket No. **20341-73747** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 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 Restriction Requirement, mailed March 31, 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 May 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 3637 for consideration of the election filed November 16, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **RICHARD B. LAZARUS**
750 17th STREET NW, SUITE 900
WASHINGTON, DC 2006

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United States Patent and Trademark Office
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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 04/21/2010

Applicant	: Steven Kent Meier	: DECISION ON REQUEST FOR
Patent Number	: 7577086	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 0 3 2004
TECHNOLOGY CENTER 3600

STEVEN B. POKOTILOW
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

In re application of
George S. Gabriel et al.
Application No. 10/824,224
Filed: April 13, 2004
For: FLUID DELIVERY VALVE SYSTEM AND METHOD

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on April 13, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a birth certificate indicating Mr. Gabriel 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: 11/05/04

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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OFFICE OF PETITIONS

In re Application of :
Frank JORDENS et al. : DECISION ON PETITIONS
Application No. 10/824,233 : UNDER 37 CFR 1.183 AND
Filed: April 14, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16038WOUS :

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/DE02/03866, filed October 14, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1754 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

/David Bucci/
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/824,233	04/14/2004	1754	900	2001P16038WOUS	1	12	1

CONFIRMATION NO. 6342

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000019905474

Date Mailed: 08/04/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Frank Jordens, Traunstein, GERMANY;
Jurgen Salomon, Trostberg, GERMANY;
Gerhard Schmidmayer, Bad Endorf, GERMANY;
Bernhard Walter, Bernstadt, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/DE02/03866 10/14/2002

Foreign Applications

GERMANY 101 50 825.5 10/15/2001
If Required, Foreign Filing License Granted: 06/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/824,233

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Catalytic coating for the self-cleaning of ovens and stoves

Preliminary Class

502

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :
Yanni, et al. :
Application No. 11/824,234 :
Filed: June 29, 2007 :
Attorney Docket No. PA4247US :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 21, 2007.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has demonstrated that inventor Yanni has refused to sign the declaration after having been presented with the application papers. Specifically, petitioner has demonstrated that a copy of the application papers was forwarded to the last known address of Yanni on August 24, 2007, but to date no executed declaration has been received.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner only submitted a petition fee in the amount of $130. A petition under 37 CFR 1.47 requires a fee of $200. Accordingly, $70 has been charged to Deposit Account No. 06-0600, as authorized.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAMDOUH YANNI
31 WESTMORELAND CT
MARKHAM ONTARIO
CANADA L3R 8L9

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Mamdouh Yanni, Alexei Gavriline, Ming :
He, Warren Tom, Joseph Schembri :
Application No. 11/824,234 :
Filed: June 29, 2007 : LETTER
Title: Magnetometer Normalization :

Dear Mr. Yanni:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Dragan Veskovic	: DECISION ON REQUEST FOR
Patent Number	: 7619539	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **411** 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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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 04/21/2010

Applicant	: Andreas W. Wendker	: DECISION ON REQUEST FOR
Patent Number	: 7644099	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **623** 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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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 05/18/2010

Applicant	: Andreas W. Wendker	: NOTICE CONCERNING IMPROPER
Patent Number	: 7644099	: CALCULATION OF PATENT TERM
Issue Date	: 01/05/2010	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/824,251	: IMPROPERLY MEASURING REDUCTION
Filed	: 04/13/2004	: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to 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 **658** 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Lew Aronson	: DECISION ON REQUEST FOR
Patent Number	: 7630631	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,258	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1171** 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 : ~~5/4/06~~ 7/24/06

Paper No.: ____

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/824261 Patent No.: 6989796 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DOUGLAS W. OWENS
PRIMARY EXAMINER

Douglas W. Owens
SPE

2821
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,265	04/14/2004	James F. Aaron	275143.100	6509

42161 7590 03/31/2008
MEYER UNKOVIC & SCOTT LLP
1300 OLIVER BUILDING
PITTSBURGH, PA 15222

EXAMINER	
GARCIA, ERNESTO	

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
03/31/2008	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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FROM DIRECTORS OFFICE

MAR 28 2008

TECHNOLOGY CENTER 3600

Meyer Unkovic & Scott LLP
1300 Oliver Building
Pittsburgh, PA 15222

In re application of
James F. Aaron
Application No. 10/824,265
Filed: April 14, 2004
For: HEAVY-DUTY MAT PANEL CONNECTOR AND SYSTEM FOR CONNECTING MAT PANELS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This is a decision on the petition filed on March 17, 2008 to make the above-identified application special for Infringement 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 petition to make special for Infringement under 37 C.F.R. § 1.102(d) is not acceptable at least because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on March 17, 2008, the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.

Teri P. Luu,
Quality Assurance Specialist
Technology Center 3600

TL: 03/28/08

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MEYER UNKOVIC & SCOTT LLP
1300 OLIVER BUILDING
PITTSBURGH PA 15222

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of
James F. AARON
Application No. 10/824,265
Filed: April 14, 2004
Attorney Docket No. **275143.100**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008 to revive the above-identified application, which, for the reasons stated below, is being treated as a request for a two (2)- month extension of time.

The request for a two (2)-month extension of time is **GRANTED**.

The record shows that a Final Office action was mailed on August 07, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 07, 2008, or on or before January 07, 2009 with the submission of a two-month extension of time fee pursuant to the provisions of 37 CFR 1.136(a). A response to the Final Office action was filed December 22, 2008. Since petitioner may obtain an extension of time up to an including three months, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $810 petition fee submitted will be refunded to petitioner's Deposit Account 50-3325 in due course.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3679 for appropriate action on the amendment filed concurrently with a Request for Continued Examination on December 22, 2008.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE JC16
MAY 31 2005
& TRADEMARK

Pet. Dec.

PTO/SB/83 (04-05)
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	10/824,281
Filing Date	04/14/2004
First Named Inventor	Pangrcic
Art Unit	1743
Examiner Name	
Attorney Docket Number	PP013

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700
7/15/05

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:

Change of attorney

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	Robert Pangrcic			
Address	1104 5th St			
City	LaSalle	State IL	Zip 61301	
Country	USA			
Telephone	815 224 3747	Email		
Signature				
Name	Matt Pasulka	Registration No.	42981	
Date	5/27/05	Telephone No.	7732201530	

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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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Woolston . :
Application No. 10/824,322 : DECISION ON PETITION
Filed: April13, 2004 :
Docket No.:13466-002016 :

This is a decision on the petition under 37 CFR 1.59 filed June 22, 2005, which is being treated as a petition requesting closure of the document filed by a third party on April 22, 2005.

The petition is granted.

Petitioner requests that the above-mentioned communication filed by eBay be expunged and its contents be disregarded in this Image file Wrapper (IFW) case.

Inspection of USPTO records for this application reveals that it was published as pre-grant publication no. US20050033655A1 on February 10, 2005. Accordingly, for the contested third party communication filed April 22, 2005, to be entered, much less remain in this application record, the controlling regulations, 37 CFR §§ 1.99 or 1.291, must be satisfied.

While self-styled as a petition under 37 CFR 1.182, a cursory review of the eBay communication reveals that it requests that the USPTO take notice of its prior findings alleged to have been arrived at during the course of prosecution of 18 related (common inventorship) patent applications, and that the USPTO apply these findings consistently in the examination of the instant non provisional application. These findings are discussed in conjunction with, *inter alia*, at least 2 specifically mentioned U.S. Patents (the latest of which issued September 2, 1997) , several prior art articles (the latest of which dates from 1995), and assertions as to what the USPTO has held to be well known in the art during the examination of the prior applications. As such, the contested communication may be considered to be either a citation of prior art within the meaning of 37 CFR 1.99, or a protest within the meaning of 37 CFR 1.291, to the issuance of a patent to the instant application.

§ 1.99(d) states that any submission under this section shall not include any explanation of the patents, publications, or other information, and if such is included the USPTO will not enter the submission. While petitioner contends the submission occupies some 53 pages, the document actually subtends some 101 pages herein. Furthermore, the explanation pertaining to the two U.S. patents alone occupies, according to the table of contents, pages 14 through 29; the prior art publications occupies, according to the table of contents, pages 30 through 35, and, of course, the remaining pages of the submission constitute the other information. Facially,

therefore, the eBay submission contains an extensive explanation of the patents, prior art, and other information, that simply does not comply with § 1.99(d), which prohibits any explanation. Further, the submission facially is untimely within the meaning of § 1.99(e), and given the publication dates of the aforementioned patents and prior art, could clearly have been submitted to the USPTO earlier. Thus, retention of the eBAy protest in this published application file is inconsistent with 37 CFR 1.99.

While 37 CFR 1.291 is more liberal that §1.99(d) in permitting a "concise" explanation of the information relied on, as opposed to precluding any explanation, the protest was untimely filed i.e., filed after publication. Nevertheless it lacks the permission of applicant required by § 1.291(b)(1) for consideration of a protest filed after publication containing even a "concise" explanation. As the eBay protest is facially not concise, and as it lacks, given the instant petition, any semblance of the applicant's written approval, its retention is likewise prohibited under § 1.291. This is particularly so as Congress expressly wrote a statutory prohibition of protests in published applications in 35 U.S.C. § 122(b) in the absence of the express written permission of the applicant.

Accordingly, for the reasons given above, it has been established to the satisfaction of the Director that expungement of the eBay protest is appropriate. The file entry for this document has been closed and as such the document is no longer available to the public for inspection, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

The $70 balance owed (for a total of $200) for the petition has been charged to counsel's deposit account.

This application is being referred to the TC for examination in due course

Any inquiries concerning this communication may be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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STEVEN RABIN
RABIN & BERDO, P.C.
1101 14TH STREET
SUITE 500
WASHINGTON, DC 20005

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JAN 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,040,585 :
Issue Date: May 9, 2006 :
Application No. 10/824,351 : NOTICE
Filed: April 15, 2004 :
Attorney Docket No. 3313-1165PUS1

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 2-14-06

rvk
Paper Number: ____

In re application of :
Carl Erik Hansen et al : DECISION ON
Serial No. 10/824,376 : PETITION
Filed: April 15, 2004 :
For: CHOCOLATE FLAVOR MANIPULATION :

This is a response to the PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT – OFFICE ACTION NOT RECEIVED, filed November 16, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 04, 2005, for failure to timely file a proper response to the Office letter dated April 05, 2005 be withdrawn. The petitioner asserts that the Office letter of April 05, 2005 was not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee),

A review of the instant application file indicates that the Office letter of April 05, 2005 was mailed to an old correspondence address of the applicants in the record, which is :

WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

The USPTO has not received a mailing address change request from the applicants before the mailing date of the Office letter of April 05, 2005. The applicants filed a mailing address change request to the USPTO on November 14, 2005 with a new address of :

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

BELL, BOYD & LLOYD LLC
P.O. BOX 1135
CHICAGO, IL 60690-1135

Since it is applicant's responsibility to promptly inform the Office of any change of correspondence address (see MPEP 601.03), and the applicants did not file a notification of mailing address change to the USPTO before the mailing date of Office letter of April 05, 2005, therefore, this application is properly abandoned and the request cannot be granted.

Therefore, this application stands abandoned.

The applicants may file a new petition to the Deputy Commissioner For Patent Examination Policy under 37 CFR 1.137(b) to revive the instant abandoned application based on unintentional delay.

The Petition is **DENIED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of
Hansen, et al.
Application No. 10/824,376
Filed: April 15, 2004
Docket No.: 112701-574

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 6, 2005 for failure to timely reply to the non-final Office action mailed April 5, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed November 5, 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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 1700 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

In re Application of :
Youichi Akasaka et al. :
Application No. 10/824,402 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. 250980US8DIV :

This is a decision on the petition filed August 14, 2008, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned August 8, 2007 for failure to file a timely reply to the Notice to File Corrected Application Papers mailed June 7, 2007, which set a 60 day period for reply. No response having been filed, a Notice of Abandonment was mailed November 6, 2007.

The file record discloses that the Notice to File Corrected Application Papers was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner indicates that the mail log shows no record of receipt and provides copies of the mail log for the instant application.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements and the mail log are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Youichi Akasaka et al. :
Application No. 10/824,402 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. 250980US8DIV :

This is a CORRECTED decision on the petition filed August 14, 2008, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The decision on petition dated September 4, 2008 and sent via email notification on September 6, 2008 is hereby vacated.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned August 8, 2007 for failure to file a timely reply to the Notice to File Corrected Application Papers mailed June 7, 2007, which set a 60 day period for reply. No response having been filed, a Notice of Abandonment was mailed November 6, 2007.

Petitioner, a participant in the "E-Office Action Pilot Program", argues that the Miscellaneous Office Communication issued by the U.S. Patent and Trademark Office (USPTO) with the mail date of June 7, 2007 was not received either by electronic mail or U.S. Postal Mail.

A review of USPTO records confirms that the "e-Office Action applicant" was not timely notified for the office action dated June 7, 2007. In view thereof, the holding of abandonment is withdrawn. No petition fees are due and none have been charged.

This application is being forwarded to the Technology Center 3653 for a re-mailing of the Notice to File Corrected Application Papers originally dated June 7, 2007 and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OCT 01 2008

In re Application of :
AKASAKA, et al. :
Application No. 10/824,402 : DECISION GRANTING PETITION
Filed: April 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 250980US8DIV :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 26, 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 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 the undersigned at (571) 272-7253.

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 information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of Ohashi et al. :
Application No. 10/824,411 : Decision on Petition
Filing Date: April 15, 2004 :
Attorney Docket No. 03500.018074 :

This is a decision on the petition filed June 28, 2006, under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment, or in the alternative, to revive the application pursuant to 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application was deemed abandoned as of January 18, 2006. A Notice of Abandonment was mailed on June 9, 2006.

Petitioner has established non-receipt of the Notice of Allowance.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot.

A petition fee is not required for a petition to withdraw the holding of abandonment under 37 CFR 1.181. Therefore, a petition fee has not been charged to petitioner's deposit account.

Technology Center Art Unit 2854 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail new copies of all the papers mailed November 17, 2005, including a new Notice of Allowance and new Notice of Allowability. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/18/08

Paper No.:____

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/824421 Patent No: 7237774B2

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: _____

PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE 3653 **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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SONG K. JUNG
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al.	:	
Application No. 10/824,436	:	DECISION GRANTING PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **8733.1025.00-US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 23, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 10, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2871 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

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,408,614 B2
Serial No. : 10/824,436
Inventor(s) : Jung et al.
Issued : August 5, 2008
Title : **LIQUID CRYSTAL DISPLAY PANEL HAVING SEAL PATTERN FOR MINIMIZING LIQUID CRYSTAL CONTAMINATION AND METHOD OF MANUFACTURING THE SAME**
Docket No. : **8733.1025.00-US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If 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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

Song K. Jung
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington DC 20006

ecw

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUL 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,508,776	:	DECISION ON REQUEST
Lin et al.	:	FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Application No. 10/824,440	:	PATENT TERM ADJUSTMENT
Filed: April 15, 2004	:	and
Atty Docket No. 320528617US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 20, 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 eighty-four (1084) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighty-three **(1083)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 16, 2007 and ends on August 27, 2008, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 500 days, and the B delay considering the 151 days of overlap is 349 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant 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 is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand eighty-three **(1083)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,508,776 B2

DATED : **March 24, 2009** **DRAFT**

INVENTOR(S) : Lin 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 734 days

Delete the phrase "by 734 days" and insert – by 1083 days--

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JAMES E. BRADLEY
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
Kendall G. Young et al :
Application No. 10/824,449 : ON PETITION
Filed: April 14, 2004 :
Attorney Docket No. TA-00657 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 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 February 22, 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 May 23, 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 2167 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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22ND FLOOR
CHICAGO IL 60606

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Claire Sun :
Application No. 10/824,460 : DECISION ON PETITION
Filed: April 14, 2004 : TO WITHDRAW
Attorney Docket No. 91891 : 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 20, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the petitioners were not appointed by customer number. In order to withdraw by customer number the practitioners must be appointed by customer number.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272- 162.

Ari M. Wise
Petitions Examiner
Office of Petitions

cc: TAIWAN ADVANCE PATENT & TRADEMARK OFFICE
4F. NO.410, SEC5, CHUNGHSIAO E. RD.
TAIPEI CITY, TAIWAN
R.O.C.

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JUN 23 2009

OFFICE OF PETITIONS

FOLEY HOAG, LLP
PATENT GROUP, (w/WYS)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

In re Application of
Vincent Ling et al
Application No. 10/824,481
Filed: April 15, 2004
Attorney Docket No. WYS-00501

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed February 12, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an ADS to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications 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)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1644 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed application.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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DIW 11-04

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON DC 20005

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Takahashi et al.	:	
Application No. 10/824,482	:	DECISION ON PETITION
Filed: 15 April, 2004	:	
Attorney Docket No. 04329.2821-01	:	

This is a decision on the petition under 37 CFR 1.53(e), filed on 20 August, 2004, requesting that the above-identified application, including 19 sheets of drawings, be accorded a filing date of 15 April, 2004.

The petition is granted.

On 15 April, 2004, the application was filed.

On 24 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 20 August, 2004, the present petition and a copy of 19 sheets of drawings were filed. Petitioner argues that the drawing sheets were filed with the other application papers on 15 April, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 15 April, 2004, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "nineteen (19) sheets of drawings". Petitioner requests that the application, including the 19 sheets of drawings, be accorded a filing date of 15 April, 2004.

A review of the record reveals that no sheets of drawings received on 15 April, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 15 April, 2004, included 19 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 19 sheets of drawings, is entitled to a filing date of 15 April, 2004.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 06-0916.

The application will be processed with the copy of the 19 sheets of drawings supplied on 20 August, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 15 April, 2004, using the application papers filed on that date, and the copy of 19 sheets of drawings described in the specification supplied with the present petition, and for an indication in Office records that 19 sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Christian D. Abel
Onsagers AS
Postboks 6963 ST. Olavs Plass
Oslo, N-0130
Norway

AIR MAIL

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TECHNOLOGY CENTER 3600

In re application of
Petter Muren
Application No. 10/824,492
Filed: April 15, 2004
For: ROTOR AND AIRCRAFT PASSIVELY STABLE IN HOVER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on November 1, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/snm: 11/15/04

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Bergen, Norway
1 November 2004

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Our ref.: P18260PC00
Christian Abel

Your ref.:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application serial no.: 10/824,492
Inventor: Petter Muren
For: Rotor and aircraft passively stable in hover
Group No.:
Examiner:
Attorney docket no.: 116184

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER MPEP §708.02 VIII

Sir:

1. The applicant hereby petitions to make this application, which has not received any examination by the examiner, special.

2. Claims – All claims in the application are directed to a single invention

3. Search – An International-type Search Report, and an International Search Report have been prepared by the Swedish Patent Office (copies of which are attached hereto), the searches were performed in classes: IPC7 B64C. In addition, the applicant has conducted a free text search in the USPTO database, the results of which (including copies of references) have been previously submitted in an Information Disclosure Statement (attached hereto). In addition to the copies previously submitted with the IDS, a copy of US 5639215, from the ISR, is enclosed herewith (and should be considered as a SUPPLEMENTAL INFORMATION DISCLOSURE.

4. The reference US6659395 is considered to represent the closest prior art.

PAGE 1/13 * RCVD AT 11/1/2004 10:05:30 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:55382701 * DURATION (mm-ss):03-52

12/03/2004 RBALTIMO 00000003 501898 10824492
01 FC:1460 130.00 DA

Please charge the petition fee of $130, and any and all other necessary fees during the pendancy of this application to deposit account 501898.

Respectfully Submitted,
ONSAGERS AS

Christian D. Abel
Reg no. 43,455
Cust. No. 29078

Certification of Facsimile Transmission and statement under 37 CFR 1.8(b)(3)

I hereby certify that the above-identified papers are being facsimile transmitted to the Patent and Trademark Office at

(703) 872-9306 on the date shown below:

Date: Nov 1, 2004

I further hereby attest that I have personal knowledge that the papers have been transmitted on this date.

Christian D. Abel 43, 455

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Onsagers AS
Postboks 6963 ST. Olavs Plass
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Norway

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JAN 13 2005

TECHNOLOGY CENTER 3600

In re application of
Petter Muren
Application No. 10/824,492
Filed: April 15, 2004
For: ROTOR AND AIRCRAFT PASSIVELY STABLE IN HOVER

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the renewed petition filed on December 21, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

In satisfaction of item (B) above, the petitioner states, "That the applicant is willing to elect without traverse should a restriction or election be required in the current application."

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/jwk: 1/03/05

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ONSAGERS AS
POSTBOKS 6963 ST. OLAVS PLASS
NORWAY N-013-0 NO NORWAY

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MAY 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Muren, Petter :
Application No. 10/824,492 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. 116184 :

This is a decision on the petition under 37 CFR 1.181, filed March 17, 2006, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Office action mailed August 16, 2005, which set a shortened statutory period for reply of one (1) month. A reply was due on or before September 16, 2005. A Notice of Abandonment was mailed on March 9, 2006.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has supplied a copy of the previously mailed correspondence, which bears a Certificate of Facsimile Transmission of September 5, 2005.

A review of the application file confirms receipt of the reply submitted on September 5, 2005. However, the serial number was incorrectly listed as 10/524,492. Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3644 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

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YING CHEN
Chen Yoshimura LLP
255 S. GRAND AVE.
215
LOS ANGELES, CA 90012

Mail Date: 04/20/2010

Applicant	: Sun-Chung Chen	: DECISION ON REQUEST FOR
Patent Number	: 7613854	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1538** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 28 2005

In re Application of		:	
Moahua Dong		:	
Serial No.	10/824,511	:	DECISION ON PETITION
Filed:	April 14, 2004	:	
For:	CHILD RESISTANT CLOSURE SYSTEM: INCLUDING REVERSIBLE CAP AND CONTAINER	:	

This is a decision on the petition to make special filed on June 3, 2005. 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 petitioners have 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 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 3727 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Mark D. Bowen, Esq.
Stearns Weaver Miller Weissler Alhadeff & Sittterson
200 East Broward Blvd., Suite 1900
Fort Lauderdale, FL 33301

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

APR - 2 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Jun Moroo et al
Application No. 10/824528
Filed: May 24, 2006
Attorney Docket No. 1341.1173

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 March 13, 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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/27/2010

Applicant	: Masanori Takita	: DECISION ON REQUEST FOR
Patent Number	: 7665895	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/824,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Takeuchi et al :
Application No. 10/824,546 : DECISION ON PETITION
Filed: PRIL 15, 2004 :
Attorney Docket No.1232-29 :

This is a decision on the petition under 37 CFR 1.182, filed, April 10, 2008 , to change the name of inventor "Megumi Itakura" to - Megumi Arimoto - and inventor "Fumie Kubota" to – Fumie Asami -.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794.

Karen Creasy

Karen Creasy
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
10/824,546	04/15/2004	1794	1504	1232-29	19	1

CONFIRMATION NO. 6528

CORRECTED FILING RECEIPT

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 09/29/2008

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)

Hiroyuki Takeuchi, Yokohama, JAPAN;
Megumi Arimoto, Fujisawa, JAPAN;
Fumie Asami, Yokohama, JAPAN;
Nobuo Taguchi, Yokosuka, JAPAN;

Assignment For Published Patent Application

Nisshin Oil Mills, Ltd., Tokyo, JAPAN

Power of Attorney:

Richard Besha--22770
Arthur Crawford--25327
Larry Nixon--25640
Robert Vanderhye--27076
Stanley Spooner--27393
Leonard Mitchard--29009
Harold Burnam Jr--29366
James Hosmer--30184
Bryan Davidson--30251
Jeffry Nelson--30481

Domestic Priority data as claimed by applicant

This application is a DIV of 09/440,137 11/15/1999 PAT 6,835,408

Foreign Applications

JAPAN 323665/1998 11/13/1998
JAPAN 49300/1999 02/26/1999

If Required, Foreign Filing License Granted: 06/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/824,546**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OIL OR FAT COMPOSITION

Preliminary Class

426

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).

OIPE JAP87
APR 10 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

TAKEUCHI et al — Atty. Ref.: 1232-29; Confirmation No. 6528

Appl. No. 10/824,546 — TC/A.U. 1794

Filed: April 15, 2004 — Examiner: Paden

For: OIL OR FAT COMPOSITION

* * * * * * * * * * * *

April 10, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUBMISSION OF DECLARATIONS AND PETITIONS UNDER 37 C.F.R. §1.182 TO CHANGE INVENTORS' NAMES

Submitted herewith are two Declarations and Petitions Under 37 C.F.R. §1.182 to change each of inventor Megumi Itakura's name and inventor Fumie Kubota's name to their respective married names. Megumi Itakura's married name is Megumi Arimoto and Fumie Kubota's married name is Fumie Asami.

The Petition fee of $260 ($130 per each Petition) was paid in the parent application and it is not believed to be necessary to pay an additional fee in the present application. However, if the reviewer deems otherwise, authorization is hereby given to charge any processing or petition fee to our Deposit Account no. 14-1140.

Please correct the record to show each of the above inventor's married name.

09/29/2008 CKHLOK 00000004 141140 10824546
01 FC:1462 400.00 DA

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____
Arthur R. Crawford
Reg. No. 25,327

ARC:eaw
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

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JJGJR.: 03-05

Paper No: __

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of
Hart, et al. :
Application No. 10/824,584 :
Filing Date: 8 April, 2004
Attorney Docket No. 20040117.ORI :

This is a decision on the petition filed on 10 January, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- the Office mailed a Notice to File Missing Parts on 24 June, 2004, with reply due absent extension of time on or before 24 August, 2004;
- the application was abandoned after midnight 24 August, 2004;
- it appears that no Notice of Abandonment was mailed before the instant petition was filed;

- in the instant petition (with fee), Petitioner alleges and makes the statement of unintentional delay, and submits as the reply an executed oath/declaration and surcharge;.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

showing/statement of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The application is released to OIPE for further processing prior to being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Takayuki Murakami :
Application No. 10/824,608 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. 040894-7024

This is a decision on the petition, filed July 17, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 26, 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 2627 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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SEATTLE, WA 98104-7092

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OFFICE OF PETITIONS

In re Application of :
Fabio Pellizzer :
Application No. 10/824,631 : DECISION ON PETITIONS
Filed: April 14, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 854163.414 : AND 37 CFR 1.55(c)

This is a decision on the communication filed June 19, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to a prior-filed nonprovisional and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed ADS.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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 granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 2815 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/824,631	04/14/2004	2815	1494	854163.414	14	26	4

CONFIRMATION NO. 6272

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CORRECTED FILING RECEIPT

OC000000021222703

OC000000021222703

Date Mailed: 11/14/2006

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)

Fabio Pellizzer, Follina, ITALY;

Assignment For Published Patent Application

STMicroelectronics S.r.l., Agrate Brianza, ITALY
OVONYX Inc., Boise, ID

Power of Attorney: The patent practitioners associated with Customer Number **38106**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/313,991 12/05/2002

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 03425235.3 04/16/2003
EUROPEAN PATENT OFFICE (EPO) 01128461.9 12/05/2001

If Required, Foreign Filing License Granted: 06/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/824,631

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Self-aligned process for manufacturing a phase change memory cell and phase change memory cell thereby manufactured

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of :
Ryan Joy et al :
Application No. 10/824,650 : DECISION ON PETITION
Filed: April 14, 2004 : TO WITHDRAW
Attorney Docket No. 1017-0035 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to John R. Schell has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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 Irvin Dingle at 571-272- 3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mintz Levin Cohn Ferris
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111