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MAY 1 2006

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of: Moriwaki et al. Serial No.: 10/824,654 Filed: April 15, 2004 Attorney Docket No.: **NEC04P050-HSd**	DECISION ON PETITION THAT A COMPLETE RESPONSE BE PROVIDED

This is a decision in petition filed on March 27, 2006, that the USPTO provide a complete response, in accordance with MPEP §707.07(f), to Applicants' response dated March 6, 2006, in the above identified application under 37 C.F.R. § 1.181. No petition fee is required.

The petition is **DISMISSED**.

Petitioner requests the examiner to point out a specific location in the cited reference of Raskar et al that satisfies the plain meaning of the independent claims.

A review of the prosecution record indicates all the claims that were anticipated by Raskar et al. have been canceled. Hence, the issue is moot.

Inquiries regarding this decision should be directed to Judy Nguyen at (571) 272-2258.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No: None

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of
Michael Zasloff et al.
Application No. 10/824,661
Filed: April 15, 2004
Attorney Docket No. 036870-5045-14
Title: AMINOSTEROL COMPOUNDS USEFUL AS INHIBITORS OF THE SODIUM/PROTON EXCHANGER (NHE), PHARMACEUTICAL METHODS AND COMPOSITIONS EMPLOYING SUCH INHIBITORS, AND PROCESSES FOR EVALUATING THE NHE-INHIBITORY EFFICACY OF COMPOUNDS

DECISION ON PETITION UNDER 37 C.F.R. §1.182

This is a decision on the "Petition for Acceptance of Drawings," which is properly treated as a petition under 37 C.F.R. §1.182, filed August 30, 2004, requesting that the above-identified application be accorded a filing date of April 15, 2004, with Figures 17A and 17B as part of the original disclosure of the application.

The application was deposited on April 15, 2004. However, on June 28, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figures 17A and 17B. The notice further indicated that the basic filing fee, the fee associated with the late submission of the filing fee, a substitute specification, and replacement drawings would be required. The notice set a two-month period for response.

On August 30, 2004, the instant petition was filed, along with Figures 17A and 17B, a copy of the notice, replacement drawings, various fees (including the fee for the submission of the instant petition) 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 09/985,417 and the Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference.

It is noted that 09/985,417 is a continuation of 09/198,486, which is a continuation of 08/487,443.

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), <u>without the need for a petition</u> (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 15, 2004. However, Figures 17A and 17B submitted with the instant petition will not be entered.

If Petitioner desires for the missing pages to be included, he should submit these pages 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 15, 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 <u>See</u> MPEP 608.02(a).

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Mark D. Miller
Kimble, MacMichael & Upton
5260 North Palm Avenue
Suite 221
Fresno, CA 93704

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Alexanian	)	
Application No. 10/824,667	)	**DECISION ON PETITION TO MAKE**
Filed: April 13, 2004	)	**SPECIAL UNDER M.P.E.P.§708.02(V)**
For: IRRIGATION CONTROLLER	)	**& (VI): ENVIRONMENTAL**
WATER MANAGEMENT WITH	)	**QUALITY & ENERGY**
TEMPERATURE BUDGETING	)	

This is a decision on the petition, filed April 13, 2004, under 37 C.F.R. § 1.102(c) and M.P.E.P. §708.02(V) & (VI): Environmental Quality & Energy, to make the above-identified application special.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section V, for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements, i.e. air, water and soil, must be accompanied by affidavits or declarations under 37 C.F.R. § 1.102 by the applicant or his/her attorney or agent explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements. No fee is required for such a petition.

A grantable petition under 37 C.F.R. § 1.102(c), M.P.E.P. § 708.02, Section VI, must be accompanied by the showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipments, household appliances, etc. A petition under M.P.E.P. § 708.02, Section VI, should be accompanied by verified statements under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to category (A) or (B).

Applicant presents two grounds to make the application special: environmental quality will be enhanced; and energy savings will result. In support of the request, applicant explains in the petition and declaration how the claimed invention would meet these two goals.

The petition, accompanied by a declaration by George Alexanian, the inventor, describes that the claimed invention is directed to a method and apparatus for automatically modifying a preliminary irrigation schedule based upon the ambient temperature and extraterrestrial radiation of a particular irrigation schedule. First, declarant states that the present invention addresses the current problem of over-irrigation, thus conserving water. Second, as stated, such decreased use of water may also conserve energy. Finally, decreased irrigation water run-off potentially reduces the amount of pollution run off into lakes, rivers and streams.

In accordance with the petition as directed to M.P.E.P. § 708.02, Section V, the petition is **GRANTED**. The petition, as directed to M.P.E.P. § 708.02, Section VI, is hereby dismissed as moot.

4/19/05

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

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ATTENTION OF KAREN A. FITZSIMMONS
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 15 2004
OFFICE OF PETITIONS

In re Application of :
Knudson, et al. :
Application No. 10/824,673 :
Filed: April 15, 2004 :
Attorney Docket No. 13033.1USC9 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 15, 2004, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. MARK B. KNUDSON

2. TIMOTHY R. CONRAD

This application is being forwarded to Technology Center 3700, for examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at(703)306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Joseph W. Tsang, et. al.	:	
Application No. 10/824,687	:	DECISION ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 200316003-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 19, 2008. Accordingly, the date of abandonment of this application is August 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

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

for

Andrea Smith
Petitions Examiner
Office of Petitions

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PAUL K. LEGAARD
ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

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OFFICE OF PETITIONS

In re Application of	:	
Bennett et al.	:	DECISION ON PETITION
Application No. 10/824,690	:	TO WITHDRAW
Filed: April 14, 2004	:	FROM RECORD
Attorney Docket No. ISIS0107-101	:	

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 12, 2006.

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

A review of the file record indicates that on July 12, 2006 the power of attorney to Isis Pharamaceuticals, Inc. 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: Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia PA 19104-2891

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APR 12 2005

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of	:
Chih-Piing Liu et al	:
Serial No.: 10/824,710	: PETITION TO MAKE SPECIAL
Filed: April 14, 2004	:
Attorney Docket No.: 55600-8014.	:

This is in response to the petition filed March 7, 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. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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APR 12 2005

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of	:
Liu et al.	:
Serial No.: 10/824,710	: PETITION TO MAKE SPECIAL
Filed: April 14, 2004	:
Attorney Docket No.: 55600-8014.US00	:

This is in response to applicants' petition filed May7, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in responding to this petition is regretted.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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

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

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

Mail Date: 04/21/2010

Applicant	: Mark Baugher	: DECISION ON REQUEST FOR
Patent Number	: 7600255	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,729	: 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 **953** 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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UNITED STATES DEPARTMENT OF COMMERCE
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 05/18/2010

Applicant : Mark Baugher
Patent Number : 7600255
Issue Date : 10/06/2009
Application No : 10/824,729
Filed : 04/14/2004

: 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 **1059** 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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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
Jacopy, Philip	:	DECISION ON PETITION
Application No. 10/824,730	:	TO MAKE SPECIAL
Filed: April 15, 2004	:	37 CFR 1.102(D)
Attorney Docket No. 13237.0001U2	:	

This is a decision on the petition under 37 CFR §1.102(d), filed January 4, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lacks item (B) above.

The Power of Attorney to the petitioner who filed the instant petition was revoked by the assignee in May 2005. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

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

The application is being forwarded to the Technology Center Art Unit 1772 for action in its regular turn.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

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TECHNOLOGY CENTER 3600

ROBERT W. HARRIS
5906 Painted Pony Drive, N.W.
Albuquerque, NM 87120

In re application of Maynard Cowan JR. Application No. 10/824,744 Filed: April 15, 2004 For: LINEAR MOTORS POWERED DIRECTLY BY PULSATING CURRENT	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Cowan 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
Patent Technology Center 3600
(703) 308-2121

RAR/pav: 8/31/04

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

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OFFICE OF PETITIONS

In re Application of	:	
Farina, Swavely, Vennari, Broome,	:	
and Bales	:	DECISION ACCCORDING STATUS
Application No. 10/824,778	:	UNDER 37 CFR 1.47(a)
Filed: 14 April, 2004	:	
Attorney Docket No. 3558.1000-004	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 24 November, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Leticia M. Broome, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have shown that a copy of the above-identified application was sent to the non-signing inventor. The non-signing inventor, however, has failed to sign and return the declaration naming her as a joint inventor along with Dino J. Farina, Donald C. Swavely, John A. Vennari, and Franklin A. Bales.

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 application is being referred to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Leticia M. Broome
7 Gage Road
Wayland MA 01778

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OFFICE OF PETITIONS

In re Application of
Farina et al.
Application No. 10/824,778
Filed: 14 April, 2004
For: METHOD OF SERVICING COMPANIES ASSOCIATED WITH A SPRAY DEVICE OPERATING UNDER GUIDELINES OF A REGULATORY BODY

Dear Ms. Broome:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/5/07

TO SPE OF : ART UNIT 3651 Crawford Gene (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/824791 Patent No.: 7234690

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: Only adds additional numbering to identify parts.

SUPERVISORY PATENT EXAMINER
SPE

3651
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/5/07

TO SPE OF : ART UNIT 3651 Crawford Gene (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/824791 Patent No.: 7234690

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Gene Crawford
SPE

3651
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 04, 2008**

TO SPE OF : ART UNIT **1792**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/824798** Patent No.: **7273526 B2**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Please approve the changes.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCNEES WALLACE & NURICK LLC
100 PINE ST
PO BOX 1166
HARRISBURG PA 17108-1166

COPY MAILED

MAY 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Harrod, et al.	:	
Application No. 10/824,804	:	DECISION ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 20714-0033	:	

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

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on October 27, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on January 28, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee together with the issue and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Cliff Daniel Cyphers	: DECISION ON REQUEST FOR
Patent Number	: 7647588	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/824,809	: 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 **1088** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

MAILED

MAY 25 2010

OFFICE OF PETITIONS

Patent No. 6,916,830	:	
Issue Date: July 12, 2005	:	
Application No. 10/824,826	:	DECISION ON PETITION
Filed: April 15, 2004	:	
Atty Docket No. 56948CON(72021)	:	

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(C)) filed March 24, 2010. This petition was filed by a patent practitioner of record.

The petition is **GRANTED**.

The patent issued July 12, 2005. The grace period for paying the first maintenance fee provided in 37 CFR 1.362(e) expired at midnight on July 12, 2009, with no payment received.

The petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The application file is being returned to Files Repository for storage as a patented case.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AUG 24 2007
OFFICE OF PETITIONS

KENNETH L. TOLAR
2908 HESSMER AVENUE
METAIRIE, LA 70002

In re Application of	:	
Claude Ray, et al.	:	
Application No. 10/824,827	:	DECISION ON PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. None	:	

This is a decision in response to the petition, filed April 11, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is DISMISSED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition is found to comply with the above-noted requirements. However, the petition cannot be revived at this time since the application is abandoned for another reason.

A review of the record of this application discloses that a final Office action was mailed April 4, 2006. In response, on October 6, 2006, a Notice of Appeal, including an appropriate 3-month extension of time, was filed using a Certificate of Mailing dated October 3, 2006. Thereafter, on February 6, 2007, an appeal brief, petition for extension of time and a check for $460 were filed, along with instruction to apply $250 for the appeal brief fee and $210 for a 2-month extension of time. There was no authorization to charge a fee deficiency to a deposit account. Since the fee for a 2-month extension of time is $225, the fee is deficient by $15. In view of the 1-month extension of time, the application became on January 4, 2007, for a failure to file an appeal brief.

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. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Under the circumstances of this case, the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)," the $15 balance of the extension fee submitted on February 6, 2007 and a statement regarding the delay in accordance with 37 CFR 1.137(b).

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

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

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

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

UNITED STATES 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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SEP 12 2007

OFFICE OF PETITIONS

KENNETH L. TOLAR
2908 HESSMER AVENUE
METAIRIE, LA 70002

In re Application of :
Claude Ray, et al :
Application No. 10/824,827 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. None :

This is a decision on the renewed petition, filed August 29, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

Accordingly, the petition is **GRANTED**.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication request which sets forth the projected publication date of November 29, 2007, accompanies this decision.

The application file is being forwarded to Technology Center Art Unit 3677 for further processing.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/824,827	04/15/2004	Claude Ray	

CONFIRMATION NO. 7739

33376
KENNETH L. TOLAR
2908 Hessmer Avenue
Metairie, LA 70002

Date Mailed: 08/23/2007

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/29/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
KURN, Nurith et al.	:	
Application No. 10/824,829	:	DECISION ON PETITION
Filed: April 14, 2004	:	TO WITHDRAW
Attorney Docket No. **25115-711.201**	:	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 July 11, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 31, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 14 2008

In re Patent No. 7,402,386	:	
Kurn et al.	:	DECISION ON REQUEST FOR
Issue Date: July 22, 2008	:	RECONSIDERATION OF
Application No. 10/824,829	:	PATENT TERM ADJUSTMENT AND
Filed: April 14, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 25115-711.201	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM UNDER AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705" filed August 15, 2008. Patentee requests that the patent term adjustment for the above-identified patent be set at 141 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **140 days**.

On July 22, 2008, the above-identified application matured into U.S. Patent No. 7,402,386. The instant request for reconsideration was timely filed on August 15, 2008. The patent issued with a revised Patent Term Adjustment of 41 days.

Patentee asserts that the period of reduction under 37 CFR 1.704(c)(10) for filing an amendment under § 1.312 on April 2, 2008, should be 12 days instead of 112 days.

Pursuant to 37 CFR 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: . . . .
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months

The period under 37 CFR 1.704(c)(10) is counted beginning on the date the amendment under § 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

In this instance, the period of reduction under 37 CFR 1.704(c)(10) of 112 days for filing the amendment under § 1.312 on April 2, 2008, is incorrect. The record reveals that the Office took action in response to the filing of amendment under § 1.312 on April 14, 2008. Accordingly, the period of adjustment of the term of the patent should have been reduced by 13 days (not 112 days), the lesser period beginning on the date the amendment under § 1.312 was filed, April 2, 2008, and ending on the mailing date of the Office action or notice in

response to the amendment under § 1.312, April 14, 2008. The period of reduction of 112 days will be removed and a period of reduction of 13 days will be entered.

In view thereof, the patent term adjustment indicated in the patent should be **140 days**.

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **140 days**.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,402,386 B2

DATED : Jul. 22, 2008

INVENTOR(S) : Kurn 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 (41) days

Delete the phrase "by 41 days" and insert – by 140 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Nguyen et al.	:	
Application No. 10/824,836	:	DECISION ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 84830-US1	:	

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**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 1731 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN P. KODA
KODA LAW OFFICE
19689 - 7TH AVE NE
NO. 307
POULSBO WA 98370

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AUG 1 8 2006
OFFICE OF PETITIONS

In re Application of
Tidwell et al.
Application No. 10/824,845
Filed: April 15, 2004
Attorney Docket No. OT2.P17-4

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed August 19, 2005.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed January 28, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 29, 2005. A Notice of Abandonment was mailed on July 29, 2005.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on January 28, 2005 was never received. A review of the record indicates the Notice of Allowance and Fee (s) Due was mailed to an incorrect correspondence address. A change of correspondence address was received in the Office on January 4, 2005. However the change of correspondence address was not entered. Thus the Notice of Allowance and Fee (s) Due was improperly mailed.

This application is being forwarded to Art Unit 2673 for re-mailing of the Notice of Allowance and Fee (s) Due and the Notice of Allowability to the correct correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 27 2007

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of:
Chien-Chao Huang, et al.
Application No. 10/824,854
Filed: April 15, 2004
For: METHOD OF MANUFACTURING A MICROELECTRONIC DEVICE WITH ELECTRODE PERTURBING SILL

DECISION ON PETITION UNDER 37 CFR § 1.181 TO WITHDRAW FINALITY OF REJECTION

This is a decision on the petition filed on 20 February 2007 under 37 C.F.R. § 1.181 to Withdraw Finality included in the Office Action dated 21 November 2006.

The petition is **DENIED**.

It is found the Final Rejection mailed 21 November 2006 was necessitated by applicant's amendment of the claims as set forth under the guidelines in MPEP §706.07(a). In particular, the examiner sent out a Non-Final Rejection on 04 November 2005, at that time applicant substantively amended the claims in the response filed 11 April 2006. After the amendment, the examiner did a Final Rejection mailed on 18 July 2006. Applicant argued that the Final Rejection mailed at that time was defective which forced the examiner to reconsider his rejection. The finality of that rejection was withdrawn and a second Final Rejection was mailed on 21 November 2006 in lieu of the previous final rejection of 18 July 2006.

Despite applicant's assertions, an amendment does not have to be filed between the two rejections to force finality. MPEP 706.07(a) states that a "second or any subsequent actions on the merits shall be final except where the examiner introduces a new ground of rejection that is" not "necessitated by applicant's amendment of the claims." It is enough that applicant substantively amended the claims once on 11 April 2006. The second Final Rejection is a subsequent action based on those amended claims and as discussed below, it was the amendment applicant filed that required the examiner to perform a new search and reconsider his rejection. As stated in MPEP 706.07, the rules are not meant to give the applicant the right to "amend as often as the examiner presents new references or reasons for rejection," and present practice also does not sanction

hasty, and ill-considered final rejections. However, in this case the Final Rejection issued by Examiner Dickey was not hasty or ill-considered.

Upon close review of the application, it is determined that the new art cited and the 102 of MONTGOMERY et al. which was changed to a 103 in the second Final Rejection were both needed because of applicant's substantive amendment to the claims on 11 April 2006. The new reference ABADEER et al. and the 103 rejection deals with amended claim 1 which discloses the "patterned feature being part of a transistor and comprising at least one electrode ...situated proximate the plurality of doped regions..." Applicant particularly argues these features in their response of 11 August 2006.

For the above reasons, the finality of the Office Action dated 21 November 2006 is found to be proper. Applicant is reminded that the shortened statutory period continues to run from 21 November 2006.

Sharon Gibson
Director, Technology Center 2800

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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MCCRACKEN & FRANK LLP
200 W. ADAMS STREET
SUITE 2150
CHICAGO IL 60606

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Romier et al.	:	
Application No. 10/824,880	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 28944/40098	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 22, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 23, 2005. A Notice of Abandonment was mailed September 9, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 29, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

This matter is being referred to Technology Center 3600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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ROBERT N. MONTGOMERY
109 BROWNLEE AVE.
BROUSSARD LA 70518-3021

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Toby Wexler	:	
Application No. 10/824,889	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 20040414	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of August 14, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 15, 2008. *See* MPEP 1214.06. The Notice of Abandonment was mailed January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian Brown
Petitions Examiner
Office of Petitions

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M. ROBERT KESTENBAUM
11011 BERMUDA DUNES NE
ALBUQUERQUE, NM 87111

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JUN 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Loffler, Franz	:	DECISION ON PETITION
Application No. 10/824,918	:	TO WITHDRAW
Filed: April 15, 2004	:	FROM RECORD
Attorney Docket No. (MM) 54 401	:	

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 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 M. Robert Kestenbaum, the sole attorney of record.

M. Robert Kestenbaum 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 Franz Loffler at the address indicated below.

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:

FRANZ LOFFLER
LANGE STRASSE 4
ILLERTISSEN D-892-57 DE GERMANY

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/09/2010

Applicant	: Paul E. Bender	: DECISION ON REQUEST FOR
Patent Number	: 7630719	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/824,920	: 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 **1335** 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.

OIPE IAP48
JAN 30 2006
PATENT & TRADEMARK OFFICE

N THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Visco et al.

Attorney Docket No.: PLUSP040

Application No.: 10/824,944

Examiner: Tracy Mae Dove

Filed: April 14, 2004

Group: 1745

Title: PROTECTED ACTIVE METAL ELECTRODE AND BATTERY CELL STRUCTURES WITH NON-AQUEOUS INTERLAYER ARCHITECTURE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail on January 25, 2006 in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

Signed: _____
Tara Hayden

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. SECTION 1.102 (c)

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

Sir:

The applicant hereby petitions, pursuant to 37 CFR 1.102 (c), that the subject patent application be accorded "special" status and be advanced to an early examination based upon material of contribution of the subject invention to enhancement of the environment and conversation of energy resources.

It is widely known that lithium metal reacts violently with water, and even more violently with aqueous acidic solutions. Aqueous battery systems have been attempted previously using unprotected lithium metal electrodes. However, due to the rapid corrosion of unprotected lithium metal electrodes in water, batteries formed using such electrodes would have very short life, and have limited commercial appeal due to safety problems. However, it has been found that a cell composed of a lithium electrode protected in accordance with the present invention can be immersed into acidic aqueous electrolytes without incident. The thermodynamic open circuit potential is observe reference and a normal hydrogen electrode and lithium can be discharg

FEB 14 2006

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700

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Randy J. Pritzker
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Akihisa Inatani et al.	:	
Application No. 10/824,947	:	DECISION GRANTING PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1459.70090US00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 10, 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 April 12, 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 2627 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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OFFICE OF PETITIONS

In re Application of
DRUMMOND, Stephen M.
Application No. 10/824,954
Filed: April 14, 2004
Attorney Docket No. **03-1077**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to ROPES & GRAY LLP has been revoked by the assignee of the patent application on April 22, 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: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Miller et al. :
Application No. 10/824,962 :
Filed: April 15, 2004 :
Attorney Docket No. GLOBP102USA :

DECISION ON PETITION

This is a decision on the petition, filed September 11, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed December 22, 2008, which set a three (3) month shortened statutory period for reply. The application was held abandoned on March 23, 2009, for failure to submit a timely response to the final Office action. On July 30, 2009, the Office mailed a Notice of Abandonment.

Petitioner asserts that the Office action dated December 22, 2008 was not received. Petitioner contends that the final Office was not received because the power of attorney and change of correspondence address filed on September 18, 2008 was not entered. Thus, the final Office action was mailed to the incorrect address.

A review of the written record indicates an irregularity in the mailing of the Office action of December 22, 2008. In this regard, the Office received and failed to enter the power of attorney and change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment is withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2612 for remailing the Office action of December 22, 2008 and resetting the period for reply.

Charlema Grant
Petitions Attorney
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/824,962	04/15/2004	John M. Miller	GLOBP102USA

CONFIRMATION NO. 7469

POA ACCEPTANCE LETTER

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000038669044

Date Mailed: 11/09/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2008.

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.

/crgrant/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/824,962	04/15/2004	John M. Miller	GLOBP102USA

CONFIRMATION NO. 7469

POWER OF ATTORNEY NOTICE

23623
TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

OC000000038669043

Date Mailed: 11/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2008.

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

/crgrant/

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

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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN, PA 18195-1501

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APR 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Hao Ding	:	
Application No. 10/824,993	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 06268D3 USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 24, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 27, 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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Retta Williams

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

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of :
Jerry Joseph :
Application No. 10/824,997 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. RESEM.P-003 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 21, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A One-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3683 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FITZPATRICK CELLA (CATALENT)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OCT 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
DETWILER, et al.	:	
Application No. 10/825,016	:	DECISION ON PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. RPS6116-C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 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 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2007. Accordingly, the date of abandonment of this application is June 12, 2008.

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

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: David Cheng-Song Qi	: DECISION ON REQUEST FOR
Patent Number	: 7609646	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,030	: 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 **1134** 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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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Darin P. Haudrich	: DECISION ON REQUEST FOR
Patent Number	: 7617166	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,032	: 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 **195** 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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WALLENSTEIN WAGNER & ROCKEY, LTD.
311 S. WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606-6630

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DEC 15 2006

OFFICE OF PETITIONS

In re Patent No. 7,088,493 :
Issue Date: August 8, 2006 :
Application No. 10/825,044 :
Filed: April 15, 2004 :
Attorney Docket No. 4132 P 002 :

NOTICE

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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 :

ODRICH, Steven :
Application No. 10/825,047 :
Filed: April 15, 2004 :
Attorney Docket No. **026322-000600US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. 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 is an outstanding Office action mailed December 19, 2007 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **STEVEN ODRICH**
3765 RIVERDALE AVENUE
BRONX, NEW YORK 10463

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

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NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG, NY 10962-2100

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OFFICE OF PETITIONS

In re Application of	:	
Areal Guerra Rogelio	:	
Application No. 10/825,048	:	DECISION GRANTING PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. G80-019 DIV	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of July 24, 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 1731.

Karen Creasy
Petitions Examiner
Office of Petitions

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/22/2010

Applicant	: James Weldon	: DECISION ON REQUEST FOR
Patent Number	: 7606011	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,059	: 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 **768** 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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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/26/2010

Applicant	: James Weldon	: DECISION ON REQUEST FOR
Patent Number	: 7606011	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/825,059	: 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 **768** 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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King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

In re Application of	:	
Liu et al.	:	
Application No. 10/825,068	:	DECISION ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 55600.8014.US03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 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 June 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with the 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 Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1646 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Stephen Todd
PO Box 2168
Menlo Park, CA 94025

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

Mail Date: 04/21/2010

Applicant	: Dino J. Farina	: DECISION ON REQUEST FOR
Patent Number	: 7658122	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,082	: 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 **1526** 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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Jeffery R. Raymond	: DECISION ON REQUEST FOR
Patent Number	: 7601874	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,084	: 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 **1379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/19/10

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10825127 Patent No.: 7608695

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: The compound was misspelled in the Title of the Invention. No new matter is introduced and the requested correction does not affect the scope of the claimed invention.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Mark Shibuya Art Unit 1641

SPE /Mark Shibuya/
Art Unit 1641

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

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OFFICE OF PETITIONS

In re Patent No. 6,927,903	:	
Issued: August 9, 2005	:	
Application No. 10/825,134	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 251937US25CONT	:	

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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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PRATT & WHITNEY CANADA CORP.
1000 MARIE-VICTORIN (01BE5)
LONGUEUIL QC J4G 1A1 CA CANADA

In re Application of :
Michael Owen Whiting :
Application No. 10/825,138 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. 2993-520US RM/JR/AS

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 August 2, 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 3746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: T. James Reid
Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal, QC H3A 2-Y3

---

[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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OGILVY RENAULT LLP/S.E.N.C.R.L., S.R.L.
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC H3A 2Y3 CA CANADA

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Whiting, Michael Owen	:	
Application No. 10/825,138	:	
Filed: April 16, 2004	:	
Attorney Docket No. 2993-520US JR/as	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 12, 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 Fee Transmittal; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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1981 MCGILL COLLEGE AVENUE SUITE 1600
MONTREAL QC H3A2Y3
CANADA

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OFFICE OF PETITIONS

In re Application of :
Buijs et al. :
Application No. 10/825,139 :
Filed: April 16, 2004 :
Attorney Docket No. 15246-6US SC/sm :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 20, 2006, to withdraw the holding of abandonment for the above-identified application.

On October 6, 2005, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on January 7, 2006. A Notice of Abandonment was mailed on May 16, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the final Office Action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the final Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the final Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2877 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Deanna Lynn Quigg Brown	: DECISION ON REQUEST FOR
Patent Number	: 7617438	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,142	: 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 **1064** 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Joseph W. Price
SNELL & WILMER L.L.P.
Suite 1200
1920 Main Street
Irvine CA 92614-7230

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of :
Ken Kitamara :
Application No. 10/825,144 :
Filed: April 14, 2004 :
Attorney Docket No.: 82478-6500 :

DECISION GRANTED-IN-PART

This is a decision on the petition filed July 23, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed June 29, 2004, be withdrawn.

The application was filed on July 23, 2004. However, on March 19, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of April 14, 2004 but figure 4 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 4 was filed on April 14, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists "drawings 20 sheets". The petition is further accompanied by a copy of figure 4.

Applicant's postcard receipt is prima facie evidence that 20 sheets of drawings including figure 4 as described in the specification was received on April 14, 2004, but figure 4 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figure 4 was received on April 14, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted figure. However, the Notice was correct regarding the requirement to submit an executed oath or declaration. No petition fee is due and none has been charged.

Since figure 4 as described in the specification cannot be located in the Office, figure 4 supplied on July 23, 2004, will

be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 14, 2004, using the drawings submitted on December 12, 2003 and substitute figure 4 supplied on July 23, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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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: Serizawa et al.
Application No. 10/825,158
Filed: April 16, 2004
For: METHOD FOR ALLOCATING STORAGE AREA TO VIRTUAL VOLUME

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

This is a response to the petition filed February 17, 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, petitioner will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed February 17, 2005 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The detailed discussion of the Watanabe reference does not specify the features of claim 2 that read over the references cited. The Petitioner indicates that each of the references do not teach the features of converting a write request from a computer to a write request to a storage system and that the storage system having the newly-allocated storage area transmits the updated write request; however, claim 2 cites an access request and fails to disclose or set forth the features of the write request. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

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

Brian L. Johnson
Special Program Examiner 4/11/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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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: Serizawa, et al.
Application No. 10/825,158
Filed: 16 April 2004
For: METHOD FOR ALLOCATING STORAGE AREA TO VIRTUAL VOLUME

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 13 June 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 17 February 2005, and dismissed in the decision mailed 13 April 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. § 102(d) states in relevant part:

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

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

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

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

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

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

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

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

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

GO

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1800 DIAGONAL RD., SUITE 370
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Kazuyoshi Serizawa et al :
Application No. 10/825,158 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. H-1141

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2185 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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P.O. BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Bade et al.	:	
Application No.: 10/825187	:	DECISION ON
Filing or 371(c) Date: 04/15/2004	:	PETITION
Attorney Docket Number: AUS920040034US1	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Office Action not Received," filed June 4, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed October 30, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on December 1, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Office records

Office records reveal that the Notice was mailed to Applicant at the correspondence address of record, and returned to this Office as undeliverable by the United States Postal Service (USPS).

Petition under 37 CFR 1.181

Applicant petitions for withdrawal of the holding of abandonment on the basis that the Office action was not received. Applicant has also filed a "Change of Attorney's Address in Application."

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. 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). (Emphasis supplied)

MPEP 711.03(c)

Analysis

Office records reveal that the Office communication, mailed October 30, 2007, was mailed to the correspondence address of record. Thereafter, Applicant filed a change of correspondence address. As such, 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.

Moreover, The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number. MPEP 601.03. (Emphasis supplied).

Accordingly, the petition to withdraw the holding of abandonment is dismissed.

Alternate venue

Applicant is urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

A copy of the Notices is enclosed.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

Enclosures: Office communication mailed October 30, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,187	04/15/2004	Steven A. Bade	AUS920040034US1	7646

7590 10/30/2007

Duke W. Yee
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380

EXAMINER
GELAGAY, SHEWAYE

ART UNIT	PAPER NUMBER
2137	

MAIL DATE	DELIVERY MODE
10/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,187	BADE ET AL.	
	Examiner	Art Unit	
	Shewaye Gelagay	2137	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☒ Responsive to communication(s) filed on 15 August 2007.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

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

8)☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on August 15, 2007. Claim 7 has been amended. Claims 1-20 are pending.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-6 and 10-20 drawn to method of logging audit events and protecting the audit log file by stored data protection, classified in class 713, subclass 193.

   II. Claims 7-9, drawn to a method of verifying a source of log file by validating the authenticity of the first log file, classified in class 726, subclass 3.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Group I is method of logging audit events and protecting the audit log file by stored data protection while Group II is a method of verifying a source of log file by validating the authenticity of the first log file. The subcombination has separate utility such as verifying and validating a source of the log file.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shewaye Gelagay whose telephone number is 571-272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

Shewaye Gelagay SG

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

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C/O YEE & ASSOCIATES PC
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OFFICE OF PETITIONS

In re Application of	:	
Bade et al.	:	
Application No.: 10/825187	:	DECISION ON
Filing or 371(c) Date: 04/15/2004	:	PETITION
Attorney Docket Number: AUS920040034US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed October 30, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on December 1, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and includes a response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2437 for processing of the Amendment filed with the petition in due course.

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

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

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79 Wellington Street West
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In re application of
John Amico et al.
Application No. 10/825,216
Filed: April 16, 2004
For: SYSTEM AND METHOD FOR DIGITIZING A PATTERN

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 28, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed May 28, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on May 28, 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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 03/17/05

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, DC 20231
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P.O. BOX 10395
Chicago, IL 60610

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APR 01 2005

TECHNOLOGY CENTER 3600

In re application of
Mark Goodyear et al.
Application No. 10/282,723
Filed: October 28, 2002
For: TILL RECEIPT READER

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on June 21, 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 in the above-identified application is not approved because Stephen Durant is not, and never has been an attorney of record. So he can't sign any withdrawal of attorney.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/slb : 03/22/05

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TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO ON M5K 1N2 CA CANADA

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
John Amico, et al.	:	
Application No. 10/825,216	:	DECISION ON REQUEST
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 32798-2003	:	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 20, 2005.

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

The request is signed by Matthew J. Marquardt, on behalf of himself and all the attorneys/agents associated with Customer Number 33721. However, a review of the file record indicates that the power of attorney to Matthew J. Marquardt and all the attorneys/agents associated with Customer Number 33721 have been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

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

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2040 MAIN STREET 14TH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Gaton, et al.	:	
Application No. 10/825,230	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 83743-16	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 9, 2009.

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 June 20, 2008. This Office action set a shortened statutory period for reply of three (3) months. Therefore, the last day a reply could have been timely filed, with a three month extension of time, would have been December 20, 2008. The Office mailed a Notice of Abandonment on December 24, 2008, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on December 22, 2008, made timely by obtaining a three month extension of time and by the fact that December 20, 2008 fell on a Saturday. See 37 CFR 1.7(a). A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Accordingly, it is obvious 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 1797 for consideration of the Amendment, timely filed with a thre month extension of time on December 22, 2008.

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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6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
Richard K. Ogg	:	DECISION ON PETITION
Application No. 10/825,232	:	TO WITHDRAW
Filed: April 16, 2004	:	FROM RECORD
Attorney Docket No. 4804.110	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak, an attorney of record.

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

The file is being referred to Technology Center AU 3677 to await a reply to the Final Rejection mailed April 24, 2006.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: dp

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LOWE HAUPTMAN BERNER LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Yin-Chul Lai	:	
Application No. 10/825,233	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 3079D-0224	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 29, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed March 20, 2006. This Notice set an extendable period for reply of one (1) month. No response having been received, the application became abandoned on April 21, 2006. A Notice of Abandonment was mailed on November 17, 2006.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address associated with the Customer Number on the application transmittal form.

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

The matter is being forwarded to Group Art Unit 3724 for consideration of the "Response to Restriction Requirement", submitted with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SUITE 400
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OFFICE OF PETITIONS

In re	:
Masanori Sano	: DECISION REGARDING
Application No. 10/825,241	: PATENT TERM ADJUSTMENT
Filed: April 16, 2004	:
Patent No. 7,097,892	:
Issued: August 29, 2006	:

This letter is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed October 27, 2006. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from sixty-five (65) days to one hundred fifty-three (153) days.

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

On August 29, 2006, the above-identified application matured into U.S. Patent No. 7,097,892. The patent issued with a Patent Term Adjustment of sixty-five (65) days.

Patentee states that the patent is subject to a terminal disclaimer.

The Office determined a patent term adjustment of sixty-five (65) days based on an adjustment for PTO delay of one hundred fifty-three (153) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of eighty-eight (88)) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(10). The adjustment of eighty-eight (88) days is at issue.

A review of the application file reveals that applicants filed a Information Disclosure Statement (IDS) on May 2, 2006, after they had previously filed a response on March 29, 2006. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item of information contained in the Information Disclosure Statement filed concurrently hereiwth was cited in a communication from a foreign patent office in a counterpart foreign application". § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was **first cited** in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

Patentee should have mirrored the language of "first cited" as required by § 1.704(d). Accordingly, applicant delay of eighty-eight (88) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(10).

In view thereof, the correct determination of patent term adjustment is **sixty-five (65) days**.

If patentee want to make an assertion that "each item" was "first cited", then patentee may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of §1.704(d). Patentee is given **thirty (30) days** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

Receipt of the fee under 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

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Moser, Patterson & Sheridan, L.L.P.
Suite 100
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Shrewsbury NJ 07702

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OFFICE OF PETITIONS

In re Patent No. 7,050,065	:	
Issue Date: May 23, 2006	:	
Application No. 10/825,259	:	DECISION GRANTING PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NVDA/P000715	:	

This is a decision on the petition, filed October 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 25, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

This application matured into Patent No. 7,050,065 on May 23, 2006. Therefore, no further action in this case is required.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

John C. Carey
Patterson & Sheridan, LLP
2040 Post Oak Blvd., Suite 1500
Houston, TX 77056

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ANDERSON & MORISHITA, L.L.C.
SUITE 102
2725 S. JONES BLVD.
LAS VEGAS NV 89146

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OFFICE OF PETITIONS

In re Application of	:	
Gary Ellis	:	DECISION ON PETITION
Application No. 10/825,262	:	
Filed: 14 April, 2004	:	
Atty Docket No. ELLISG04-01CIP	:	

This is a decision on the petition, filed on 9 June, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 13 April, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 1 December, 2005, is enclosed herewith.

The address provided in the petition is different than the correspondence address of record. A courtesy copy of this decision is being forwarded to the address listed in the petition. All future correspondence will be sent solely to the address of record, however. If the correspondence address has changed, petitioner should file a Change of Correspondence Address.

The application is being referred to Technology Center Art Unit 3713 for examination in due course.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

cc: Robert Ryan Morishita
3800 Howard Hughes Parkway, Suite 850
Las Vegas NV 89109

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Stites & Harbison
400 W. Market Street
Suite 1800
Louisville, KY 40202-3352

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OFFICE OF PETITIONS

In re Application of
Gary L. Hopkins
Application No. 10/825,276
Filed: April 15, 2004
Attorney Docket No. ST288/0ST12-U

DECISION DISMISSING PETITION

This is a decision on the petition filed May 17, 2004, requesting that the above-identified application be accorded a filing date of April 13, 2004, rather than the presently accorded date of April 15, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to the Office of Initial Patent Examination with the presently accorded filing date of April 15, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 13, 2004, pursuant to the requirements of 37 CFR 1.10.

Paragraph (a) of 37 CFR 1.10 states that:

> "Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in Express Mail" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail' service of the USPS."

Petitioner states that the package in question was deposited on April 13, 2004 in an Express Mail receptacle before the specified pickup, but the "date-in" on the Express Mail label is incorrectly noted as April 15, 2004. In support, petitioner has provided a copy of the Express Mail label, a post card receipt, and a certificate of Express Mail under 37 CFR 1.10.

The certificate of Express Mail is not sufficient evidence by itself to establish the date of mailing. Parties who use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. *See MPEP 513*. The corroborating evidence required by the rule does not accompany the instant petition. Petitioner has not provided a copy of a log book containing the information needed to support petitioner's allegation that the package was deposited on April 13, 2004. Additionally, no statement from the USPS has been presented in stating that any error was made by the Postal Service in the processing of petitioner's Express Mail package with a "date-in" of April 15, 2004. Applicants were made aware of the date of receipt in Express Mail acknowledged by the USPS upon return of their Express Mail receipt. It is uncertain why petitioner did not obtain a statement in writing from the USPS acknowledging an error in the processing of their Express Mail package immediately after receiving the Express Mail receipt. Moreover, a review of the USPS' "Track and Confirm" shows that the package in question was deposited with the USPS on April 15, 2004.

Upon reconsideration, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Gary L. Hopkins	:	
Application No. 10/825,276	:	DECISION GRANTING
Filed: April 13, 2004	:	PETITION
Attorney Docket No. ST288/0ST12-U	:	

This is a decision on the petition filed October 21, 2004, requesting that the above-identified application be accorded a filing date of April 13, 2004, rather than the presently accorded date of April 15, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner alleges that the application was deposited in Express Mail Service on April 13, 2004. In support, petitioner has provided a copy of an electronic logbook containing the information needed to support petitioner's allegation that the package was deposited on April 13, 2004.

In view of the above, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of April 13, 2004.** Thereafter, the application file will be forwarded to Technology Center 1700 for examination in due course.

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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CHRISTOPHER D. HARRINGTON
HARRINGTON LAW OFFICE
447 ADA DRIVE SE
ADA MI 49301

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OFFICE OF PETITIONS

In re Application of	:
Kent Clifton Garcie, Jr.	:
Application No. 10/825,278	: DECISION REFUSING STATUS
Filed: 15 April, 2004	: UNDER 37 CFR 1.47(b)
Attorney Docket No. HR 3.02	:

This is in response to the petition filed under 37 CFR 1.47(b) on 15 April, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 15 April, 2004, with a declaration naming Kent Clifton Garcie, Jr., as the sole inventor signed by apparently signed by Mark Jeffrey Lowe, President, Hardware Resources.

Petitioner asserts that the inventor was employed with Hardware Resources but was terminated prior to signing the declaration. Petitioner further asserts that the inventor refuses to sign the declaration.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (1), (2), (5), and (6).

In regards to item (1), petitioners must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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. While the declaration appears to have been signed by the president of the corporation, the corporate officer signing on behalf of the non-signing inventor must identify must identify his/her and title in the declaration. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

In regard to item (5), petitioner has not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[3] Petitioner may establish proprietary interest by filing a copy of

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[1] MPEP 409.03(d).

[2] MPEP 409.03(b).

[3] MPEP 409.03(f).

the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(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 1.47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damage in accordance with MPEP 409.03(g). A statement by applicant that the filing is necessary to prevent irreparable damage is sufficient.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-08

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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MAY 1 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application Number: 10/825299	:	DECISION ON PETITION
Filing Date: 04/16/2004	:	
Attorney Docket Number:	:	
003797.00923	:	

This is a decision on the petition, styled under 37 CFR 1.47(a) and filed on February 15, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

This application was filed on April 16, 2004, and named Joseph H. Matthews, III, David Wm. Plummer, and David A. Barnes as joint inventors.

On February 15, 2008, the present petition, along with a declaration under 37 CFR 1.131 signed by joint inventors Matthews and Barnes.

Petitioners state that a copy of, *inter alia*, a declaration was sent by e-mail to the non-signing inventor on January 16, 2008, but that the non-signing inventor (Plummer) replied on January 17, 2008, confirming receipt of the Declaration, but stating that he would not sign the declaration. Petitioners further aver that

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

another request for Plummer to sign the declaration was sent by email on January 28, 2008, but that on January 29, 2008, Plummer again replied that he was refusing to sign the declaration.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

The showing of record is deficient in that the copies of email conversations referenced as exhibits in the petition cannot be located among the papers filed with the petition on February 15, 2008. Rather, the papers corresponding to the exhibits appear to be copies of correspondence sent with the original application papers rather than the documents sent with the affidavit under 37 CFR 1.131. Specifically, Exhibit A appears to be a copy of the original application for patent, while Exhibit B appears to be the cover letter transmitting the original application papers to the inventors, while the facsimile cover sheet and email included as Exhibit C, are dated August 26, 1997, nearly 10 years before the events recounted in the petition, and do not appear to pertain to the matters discussed in the petition.

Petitioner must include the relevant emails, and any other correspondence or documentation showing that the declaration under 37 CFR 1.131 was sent or given to Plummer at his last known address, but that Plummer refused to sign the declaration under 37 CFR 1.131.

Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts having first-hand knowledge of the details.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) cannot be located.

It is additionally noted that the fee for a petition under 37 CFR 1.183 is $400.00, rather than $200.00.[2] As such, counsel's deposit account, No. 50-1428, will be charged the additional $200.00 as authorized in the present petition.

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

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

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

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

Telephone inquiries 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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[2] See 37 CFR 1.17(f).

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SUITE 1200
WASHINGTON DC 20005-4051

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JUL 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application Number: 10/825299	:	DECISION ON PETITION
Filing Date: 04/16/2004	:	
Attorney Docket Number:	:	
003797.00923	:	

This is a decision on the renewed petition under 37 CFR 1.183, filed on May 30, 2008, which is treated as a petition seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **granted**.

In view of the efforts recounted to obtained the signature of joint inventor David Plummer, it is agreed that justice would be served by waiving the requirement for his signature on the declaration filed under 37 CFR 1.131.

The petition fee has been received.

The application is being referred to the Technology Center for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

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Alexandria, VA 22313-1450
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Kanesaka Berner and Partners Patent Agents LLP
(Hauptman Kanesaka Berner Patent Agents, LLP)
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Makoto Shonohara : DECISION ON PETITION
Application No. 10/825,334 :
Filed: April 16, 2004 :
Attorney Docket No. D-1588 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 8, 2006, to revive the above-identified application.

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 under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed June 30, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on October 1, 2005. The present petition preceded the mailing of a Notice of Abandonment.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant

> application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
>
> (2) The petition fee as set forth in 37 CFR 1.17(l);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable.[1]"

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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[1] 35 USC § 133.

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned 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.[3]

With regard to requirement (3):

In the present petition, applicant's legal representative asserted that he never received the nonfinal Office Action of June 30, 2005, because the USPTO mailed it to his previous office with an old correspondence address. The practitioner stated that the present application was filed on April 16, 2004, and indicated the correspondence address as Kanesaka and Takeuchi, 1423 Powhatan Street, Alexandria, VA 22314. The practitioner explained that on May of 2004, he established the Office of Hauptman Kanesaka Berner Patent Agents LLP at 1700 Diagonal Road, Alexandria, VA 22314. His former partner, Yusuke Takeuchi, established the Office of Takeuchi and Takeuchi at 1700 Diagonal Road, Alexandria, VA 22314. The practitioner stated that after he moved, he asked the Office manager to change the address in all of the files he was acting as a principle agent. The Office manager asserted that he contacted the Electronic Business Center of the USPTO and obtained an electronic list of the applications that the practitioner was listed on the declaration at the time of filing the applications.

The practitioner stated that addresses of the files were changed according to the list provided by the USPTO. The practitioner averred that the present application was not included in the electronic list, even though his name was present on the declaration. The practitioner stated that the Office Action of June 30, 2005, was not delivered to him, and the application became abandoned. The practitioner asserted that the address of the present application was not changed inadvertently with the USPTO

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

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887.

because the list obtained from the USPTO did not contain the application. Therefore, applicant contended that the abandonment of this application was unavoidable, and requested that the USPTO remail the Office Action and restart the period for reply.

A review of the written record indicates that the nonfinal Office Action was properly mailed to Kanesaka and Takeuchi, 1423 Powhatan Street, Alexandria, VA 22314, which was the address of record as it existed on June 30, 2005. The Office Action was returned to the USPTO with an indication from the USPS that the forwarding time had expired and to return to sender. Therefore, applicant did not receive the nonfinal Office Action because he failed to file a timely change of correspondence address with the USPTO. Applicant did not file a change of correspondence address with the USPTO until February 9, 2006, over seven months after the mailing of the Office Action, and 21 months after the practitioner moved his Office. Nonetheless, applicant argued that the practitioner did not receive the nonfinal Office Action because the USPTO failed to identify this application in the electronic list, which was supplied to the Office manager.

Initially, the Office notes that the belated notification to the USPTO of the change of correspondence address does not constitute proper notification as to establish unavoidable delay. An applicant is responsible for promptly notifying the USPTO of any change of correspondence address. The Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicant exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application.[4] Furthermore, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[5]

Although the Electronic Business Center attempted to provide the practitioner with a list of applications in which he appeared on the declarations at the time of filing, the USPTO has no obligation to track and notify the practitioner of all of the applicants he represents. Rather, it is the practitioner who is ultimately

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[4] MPEP 711.03(c)(III)(C)(2).

[5] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987); Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

responsible for tracking and maintaining all of the applications in which he is empowered and to ensure that a timely change of correspondence address is submitted to the USPTO for each application. It is unfortunate if the list did not identify the present application; however, this does not relieve the practitioner and applicant from their duty to submit a timely change of correspondence with the USPTO.

The USPTO must rely on the action or inaction of a duly authorized and voluntarily chosen representative of the applicant, and the applicant is bound by the consequences of those actions or inactions.[6] Specifically, an applicant's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay with in the meaning of 35 USC § 133.[7]

As applicant did not provide a sufficient showing that the delay was unavoidable within the meaning of 35 USC § 151 and 37 CFR 1.137(a), the petition is **dismissed**.

Alternative Venue:

Instead of filing a renewed petition under 37 CFR 1.137(a), petitioner may wish to file a petition pursuant to 37 CFR 1.137(b) on the basis of **unintentional** delay.

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In

[6] Link v. Wabash, 370 U.S. 626, 633-634 (1962).

[7] Haines v. Quigg, 673 F. Supp. 314, 316-317, 5 USPQ2d 1130, 1131-1132 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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), an additional $1,500.00 for a large entity and $750.00 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 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 set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

The Office finance records indicate that applicant paid a $130.00 fee for filing the petition under 37 CFR 1.137(a). The petition fee increased to $500.00. Therefore, the Office charged the Deposit Account for the difference owed in the amount of $370.00, as authorized.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kanesaka Berner and Partners Patent Agents LLP
(Hauptman Kanesaka Berner Patent Agents, LLP)
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Makoto Shonohara	:	DECISION ON PETITION
Application No. 10/825,334	:	
Filed: April 16, 2004	:	
Attorney Docket No. D-1588	:	

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

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed June 30, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on October 1, 2005. The present petition preceded the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, authorized the Office to charge the Deposit Account for the petition fee, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted**.

The Deposit Account was charged the $1,500.00 petition fee, as authorized.

This matter is being referred to Technology Center Art Unit 2829.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning

either the examination procedures or status of the application should be directed to the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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MAR 30 2007

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CANCELLED

In re Application of

Gordon Tibbitts et al.
Application No. 10/825,338
Filed: April 15, 2004
Attorney Docket No. 37163.18

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 31, 2007.

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

A review of the file record indicates that the power of attorney to the firm of Haynes and Boone, LLP, has been revoked by the assignee, Particle Drilling, Inc. of the patent application on March 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

It is noted that the revocation of power of attorney submitted on March 14, 2007 was improperly accepted by the Office on March 20, 2007. Compliance with 37 CFR 3.73(b) has not been satisfied in that a statement was not enclosed as indicated by the requestor on the revocation of power of attorney. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: King & Spalding, LLP
1100 Louisiana Street
Ste. 4000
Houston, TX 77002-5213

cc: Particle Drilling, Inc.
808 Travis, Suite 850
Houston, TX 77002

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KATTEN MUCHIN ZAVIS ROSENMAN
ATTENTION: PATENT ADMINISTRATOR
SUITE 1600
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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OFFICE OF PETITIONS

In re Application of	:
Thomas Neil Horsky et al	: DECISION ON PETITIONS
Application No. 10/825,339	:
Filed: April 15, 2004	:
Attorney Docket No. 211843-00035	:

This is a decision on the petition, filed July 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed July 1, 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, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on March 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]

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

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/250,080, which was filed on November 30, 2000, and Application No. 60/170,473, filed on December 13, 1999, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the

instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 2881 for appropriate action on the amendment submitted July 1, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed PCT application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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EXXONMOBIL
CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

COPY MAILED
AUG 2 6 2008

In re Application of	:	
Abhari, et al.	:	
Application No. 10/825,348	:	DECISION
Filed: 15 April, 2004	:	
Attorney Docket No. 2003B043D	:	

This is a decision on the petition filed on 6 February, 2008, supplemented thereafter on 19 August, 2008, seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

> **NOTE**: There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be 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.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 6 July, 2007, with reply due absent extension of time on or before Monday 8 October, 2007.

The application went abandoned by operation of law after midnight 6 October, 2007.

While Petitioner filed on 31 October, 2007, a request for continued examination (RCE) (with fee) and an information disclosure statement (IDS), only fees expressly associated with the RCE and the IDS were authorized and no general fee authorization was provided at that time or is apparent from the transmittal of the application (such as might apply throughout prosecution). It also is noted that no amendment was filed as a submission under 37 C.F.R. §1.114 in response to the final Office action (rejection) in which no claims were allowed.

It does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed.

On 6 February, 2008, Petitioner filed the instant petition (with fee), a supplementary statement of unintentional delay submitted on 19 August, 2008, and signed by the attorney of record, and Petitioner points to reply in the form of the RCE with fee previously filed and the amendment filed contemporaneously with the petition as the required reply under the regulation.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

(Petitioners who are not of record at the time an application goes abandoned and who do not obtain the statement of the person responsible for the application at the time of abandonment (attorney/agent/applicant/assignee) are reminded that their assertion(s) as to the nature of a delay and/or that a delay is unintentional are construed to have been made in concert with the aforementioned duty to inquire and disclose, and must notify the Office if their appreciation of the nature of the delay is one other than unintentional, or if they previously have failed to satisfy their obligation under 37 C.F.R. §10.18(b) to inquire into the underlying facts and circumstances when providing statements to the Office in this matter.)

[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).

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Technology Center/AU 1796 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc:
ABRAHAM HERSHKOVITZ
2845 DUKE ST.
ALEXANDRIA, VA 22314

---

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Diorr M. Bregman
Morgan Lewis & Brockius, LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306

MAILED

JAN 18 2006

Director's Office
Group 3700

In re Application of :
Jones et al. :
Serial No. 10/825,354 : DECISION ON PETITION
Filed: April 14, 2004 : TO MAKE SPECIAL
For: SYSTEM AND METHOD FOR MONITORING THE PERFORMANCE OF AN INERT GAS DISTRIBUTION SYSTEM:

Applicant's petition, filed September 24, 2004, 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.

Frederick R. Schmidt, Director
Technology Center 3700
571-272-2975

rt/ 1/17/06

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KENYON & KENYON, LLP
ONE BROADWAY
NEW YORK, NY 10004

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AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Mordechay Hershkovitz, et. al.	:	
Application No. 10/825,386	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 1662/63402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on January 30, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 7, 2006. A Notice of Abandonment was mailed on January 8, 2007.

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $30 for ten (10) advance order soft copies submitted on January 30, 2007.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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SEP 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Joan D. Leonard, et al.	:	
Application No. 10/825,391	:	DECISION ON PETITION
Filed: April 14, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 12780/103		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on August 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed March 7, 2005, using a certificate of mailing dated March 2, 2005.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 matters are required.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Joan D. Leonard	:	DECISION ON PETITION
Application No. 10/825,391	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: April 14, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12780/103	:	

This is a decision in response to the renewed petition, filed October 1, 2007, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment. It is noted that petitioner suggests that an Application Data Sheet has been included, but none was found.

The petition is **GRANTED**.

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

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

All requirements being met, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the 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. §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 instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204

This application is being forwarded to Technology Center Art Unit 1645 for further consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/825,391	04/14/2004	1645	385	12780/103	10	2

CONFIRMATION NO. 8469

CORRECTED FILING RECEIPT

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

OC000000027226598

Date Mailed: 12/11/2007

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

Applicant(s)

Joan D. Leonard, Olathe, KS;
Robert W. Tully, Olathe, KS;

Power of Attorney:
Stuart Sinder--25377
Patrick Birde--29770
Deborah Somerville--31995
Joseph Coppola--38413

Domestic Priority data as claimed by applicant

This application is a DIV of 10/726,029 12/02/2003 *
which is a DIV of 09/708,352 11/08/2000
which claims benefit of 60/164,286 11/08/1999
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2004
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/825,391**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****

Title

Vaccines for Mycoplasma bovis and methods of use

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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Solen, et al.	:	
Application No. 10/825,428	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 4830-0111PUS1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 4, 2006.

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

The above application was held abandoned for failure to timely file a reply in response to the final Office action mailed February 27, 2006. On May 25, 2006, the Office mailed an Interview Summary, in which it was stated that "The Examiner agreed to withdraw the outstanding office action mailed out on February 27, 2006." Instead, the Office mailed a Notice of Abandonment on October 5, 2006.

In view of the Interview summary mailed May 25, 2006, and the Examiner's comment stated therein, it is obvious that the Notice of Abandonment mailed October 5, 2006 was mailed in error.

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

The matter is being forwarded to Group Art Unit 2876 for re-mailing of a new Office action in accordance with the Interview Summary mailed May 25, 2006, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/825,442	04/14/2004	2632	450	SFV 307	9	16	2

CONFIRMATION NO. 8338

UPDATED FILING RECEIPT

OC000000014033624

23581
KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

Date Mailed: 10/07/2004

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

Applicant(s)

Richard L. Rowe, Saratoga, CA;
Raymond R. Blasing, Los Altos, CA;
Michael Fleisher, Sunnyvale, CA;
Serge L. Nikulin, San Jose, CA;
Thomas W. Grudkowski, Pleasanton, CA;
Maya M. Radzinski, Palo Alto, CA;
Thomas W. Trawick, San Jose, CA;
Scott T. Trosper, Meridian, ID;

Power of Attorney: The patent practitioners associated with Customer Number **23581**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/24/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/825,442

Projected Publication Date: 10/20/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Multi-sensor surveillance portal

Preliminary Class

340

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

GRANTED

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

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NOT GRANTED

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

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KING & SPALDING LLP
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BELMONT, CA 94002-0889

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OFFICE OF PETITIONS

In re Application of	:	
Chih-Ping LIU, et al	:	
Application No. 10/825,457	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 55600-8014.US02	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2008 and August 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 17, 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 one (1) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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) the required statement of unintentional delay have been received.

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

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

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

This application is being referred to Technology Center AU 1647 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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Vaishnav Srinivas et al.	:	
Application No. 10/825,481	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 030333	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before February 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 21, 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).

The application became abandoned for failure to timely pay the issue fee and publication fee. In an application or patent abandoned or lapsed for failure to pay the issue fee and publication fee, or any portion thereof, the required reply must be the payment of the issue fee and publication fee, or any outstanding balance thereof. *See* MPEP 711.03(c)(III)(A)(1). Therefore, the filing of

a Request for Continued Examination without payment of the issue fee and publication fee is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1).

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

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

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

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

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of
Vaishnav Srinivas et al.
Application No. 10/825,481
Filed: April 14, 2004
Attorney Docket No. 030333

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue and publication fees on or before February 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 21, 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 and publication fees; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance and Fee(s) Due, mailed November 20, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2816 for appropriate action on the previously filed Request for Continued Examination.

David Bucci
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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AUG 05 2008

In re Application of	:	
Venkatesh Ganti, et. al.	:	
Application No. 10/825,488	:	ON PETITION
Filed: April 14, 2004	:	
Attorney Docket No. 301560.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 13, 2007, to revive the above-identified application.

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; (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 application file is being referred to Technology Center Art Unit 2166, for entry of the amendment filed on August 29, 2007.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

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AUG 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Glenn, James L.	:	
Application No. 10/825,492	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. WDI8829US	:	

This is a decision on the petition under 37 CFR 1.181, filed July 19, 2007, 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 non-final Office action mailed September 19, 2006, which set a shortened statutory period for reply of three (3) months. A reply was due on or before December 19, 2006. A Notice of Abandonment was mailed on April 3, 2007.

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 mailing date of March 19, 2006. The amendment includes authorization to charge any extension of time fee necessary.

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. However, the $510.00 three-month extension of time required with the previously submitted amendment will be charged.

This matter is being referred to Technology Center AU 3781 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

In re Application of
John C. Sullivan, et al.
Application No.: 10/825,496
Filed: April 15, 2004
Attorney Docket No.: 35502US1

ON PETITION

This is a decision on the petition, filed June 16, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3711 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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KING & SPALDING LLP (CITI CUSTOMER NUMBER)
ATTN: GEORGE T. MARCOU
1700 PENNSYLVANIA AVENUE, NW
SUITE 200
WASHINGTON, DC 20006

Mail Date: 07/13/2010

Applicant	: Roy Sykes	: DECISION ON REQUEST FOR
Patent Number	: 7668870	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/825,502	: 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 **494** 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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ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVE.
SUITE 1400
CHICAGO IL 60611

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OFFICE OF PETITIONS

In re Application of	:	
Lee	:	
Application No. 10/825,507	:	DECISION ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. SJ09-2002-0018US2	:	

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

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed May 16, 2006 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on September 20, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of corrected drawings submitted with the instant petition.

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

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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TYCO ELECTRONICS CORPORATION
4550 NEW LINDEN HILL ROAD, SUITE 450
WILMINGTON, DE 19808

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of	:
Nevo, et al.	: DECISION GRANTING
Application No. 10/825,520	: STATUS UNDER 37 CFR
Filed: April 15, 2004	: 1.47(a)
Docket No.: 18189	:
For: OPTO-ELECTRIC MODULE	:
AND METHOD OF ASSEMBLING	:

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

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

Petitioner has shown that inventor Ron Nevo either cannot be reached or has refused to sign the declaration after having been presented with the application papers.

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

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

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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MOORE & VAN ALLEN
SUITE 800, 2200 WEST MAIN STREET
DURHAM NC 27705

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OFFICE OF PETITIONS

In re Application of Hinkle et al. Application No. 10/825,533 Filed: April 15, 2004 Attorney Docket No. 014033-000022C	DECISION ON PETITION

This is a decision on the "Petition to Establish Prior Receipt in the P.T.O. of Item(s) Considered as Omitted by the P.T.O. - Response to 'Notice of Omitted Items,'" filed July 7, 2004.

On April 15, 2004, applicants filed the above-identified application. On June 25, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of April 15, 2004, and requiring applicants to submit an executed oath or declaration and a surcharge for its late filing.

In response, on July 7, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of a two-page Declaration on April 15, 2004.

On August 3, 2004, the Office of Initial Patent Examination mailed a "Withdraw of Previously Sent Notice," indicating that the Notice to File Missing Parts was sent in error. The Office informed applicants to disregard the Notice and that the application was complete for examination purposes.

Accordingly, the petition is <u>dismissed</u> as involving a moot issue.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 23 2005

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:
Robert E. Dudley et al	:
Serial No.: 10/825,540	: SUSPENSION OF ACTION
Filed: April 15, 2004	:
Attorney Docket No.: 04272918	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed September 13, 2005.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of pending litigation.

§ 1.103 Suspension of action by the Office.

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

Applicants' petition requests suspension in view of litigation pending in the District Court in Georgia involving two cases. No indication is given as to when the cases were filed, their status or approximate date of decision or resolution nor how any decision would affect prosecution or patentability in this application. Further it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

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

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

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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DENVER CO 80201

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MAR 10 2009

OFFICE OF PETITIONS
NOTICE

In re Patent No. :
Michael J. Oister et al :
Application No. 10/825,546 :
Filed: April 14, 2004 :
Attorney Docket No. 43108.830007.US4 :

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

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

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

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

There is no indication that the person signing the instant request was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant request desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS
321 S. BOSTON, STE. 800
TULSA, OK 74103

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10/25/07

Patent No. : 7125590 B2
Ser. No. : 10/825557
Inventor(s) : Matsumoto, et al.
Issued : Oct. 24, 2006
Title : **LIQUID CRYSTAL FILM AND LIQUID CRYSTAL DISPLAY DEVICE EQUIPPED WITH SAME**
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.

The correction to column 28, line 20-25 , for drawing, text, formula not illegible/not clear.

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

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

ADAMS & WILKS
17 BATTERY PLACE
SUITE 1231
NEW YORK NY 10004

CBN/eme

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OFFICE OF PETITIONS

In re Application of
Brian T. Chait et al.
Application No. 10/825,568
Filed: April 14, 2004
Attorney's Docket No. 01173.0003U3

ON PETITION

This is a decision on the petition filed November 26, 2004 under 37 CFR 1.53, in response to the "Notice to File Missing Parts" mailed October 14, 2004, which is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed April 4, 2004. However, on October 14, 2004, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date but that Figures 1B & 9B described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that no figures were missing on April 14, 2004. Instead, the pages labeled Figure 1 and Figure 9 actually contained two figures each, namely 1A and 1B and 9A and 9B but were not so labeled. Additionally, petitioner's submission of an itemized post card receipt is acknowledged but is not considered as persuasive. The postcard is itemized by the number of drawings sheets (10) and not by the number of figures. The postcard was not explicit that there were two figures on the first and ninth drawings sheets.

It is obvious from the petition however, that no figures were actually missing on April 14, 2004. Rather, the figures were mislabeled and as a result of the applicants' filing error, failed to identify the figures on the first and ninth sheets of drawings. However, the "Notice" mailed on October 14, 2004, was correct in stating that Figures 1B & 9B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $400.00 petition was required upon filing of the petition. Thus, the $400.00 petition fee will not be refunded.

The Office of Initial Patent Examination will be notified to process the application with the filing date of April 14, 2004 and to use the application papers filed on that date and the corrected pages of sheets 1 and 9 filed on November 26, 2004 with the petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070126

DATE : January 26, 2007

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,011,634 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☐ **Approved** **All** changes apply.

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

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

Comments:

The request to change the alleged error at column 3, line 44, from "the bowl 15" to --the toilet 14-- is denied. The language presently appearing in the patent was requested by applicant in the amendment filed August 10, 2005 and is more appropriate than the corrected correction.

SPE: Charles A. Marmor, II **Art Unit** 3735

cofc

IAP43
O I P E
DEC 18 2006
PATENT & TRADEMARK OFFICE

PATENT
Attorney's Doc. No. 8200-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent No.: US 7,011,634 B2
Inventor: Paasch et al.
Issued: March 14, 2006

For: URINE SAMPLE COLLECTION DEVICE

Ser. No.:	10/825,615	Filed:	April 14, 2004
Group Art Unit:	3736	Examiner:	Charles Marmor

TRANSMITTAL LETTER

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

Certificate
DEC 21 2006
of Correction

Enclosed for filing are the following:

☒ Request for Certificate of Correction
☒ Certificate of Correction Form PTO 1050 (in duplicate)
☒ Return postcard
☒ Any deficiency or overpayment should be charged or credited to deposit account number 13-1703.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Stephen S. Ford
Reg. No. 35,139

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613

Customer No. 20575

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
Date: December 13, 2006

Kelly Andrews

DEC 26 2006

O I P E IAP43
DEC 18 2006
PATENT & TRADEMARK OFFICE

PATENT
Attorney's Doc. No. 8200-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent No.: US 7,011,634 B2
Inventor: Paasch et al.
Issued: March 14, 2006

For: URINE SAMPLE COLLECTION DEVICE

Ser. No.:	10/825,615	Filed:	April 14, 2004
Group Art Unit:	3736	Examiner:	Charles Marmor

REQUEST FOR CERTIFICATE OF CORRECTION

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

Upon comparison of the above-identified original Letters Patent with applicant's copy of the application therefore, the following error in the original Letters Patent has been noted:

On the cover sheet, under References Cited, please replace "6,434,762 B1" with --6,434,762 B2--
On the cover sheet, under References Cited, please replace "6,811,754 B1" with --6,811,754 B2--
At column 3, line 44, please replace "the bowl 15." with --the toilet 14.--
At column 6, line 35, please replace "sample cap" with --sample cup--

Applicant respectfully requests that a Certificate of Correction calling attention to the above error be issued pursuant to Rule 322 of the Patent Office and Title 35, United States Code, Section 254. Two copies of a Certificate of Correction form are enclosed.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Stephen S. Ford
35,139

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613

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
Date: December 13, 2006

Kelly Andrews

DEC 26 2006

Approved In Part

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO	:	US 7,011,634 B2
DATED	:	March 14, 2006
INVENTOR(S)	:	Paasch 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 sheet, under References Cited, please replace "6,434,762 B1" with --6,434,762 B2--

On the cover sheet, under References Cited, please replace "6,811,754 B1" with --6,811,754 B2--

~~At column 3, line 44, please replace "the bowl 15." with --the toilet 14.--~~

At column 6, line 35, please replace "sample cap" with --sample cup--

MAILING ADDRESS OF SENDER:
Marger Johnson & McCollom
210 S.W. Morrison Street, Suite 400
Portland, Oregon 97204

PATENT NO. US 7,011,634 B2

No. of additional copies
1

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 comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, D.C. 20231.

DEC 26 2006

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US 7,011,634 B2

DATED : March 14, 2006

INVENTOR(S) : Paasch 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 sheet, under References Cited, please replace "6,434,762 B1" with --6,434,762 B2--

On the cover sheet, under References Cited, please replace "6,811,754 B1" with --6,811,754 B2--

~~At column 3, line 44, please replace "the bowl 15." with --the toilet 14.--~~

At column 6, line 35, please replace "sample cap" with --sample cup--

MAILING ADDRESS OF SENDER:
Marger Johnson & McCollom
210 S.W. Morrison Street, Suite 400
Portland, Oregon 97204

PATENT NO. US 7,011,634 B2

No. of additional copies
1

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 comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, D.C. 20231.

DEC 20 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
Kelly Monroe Mathews, et al. :
Application No.: 10/825,617 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No.: 06975-469001 / AOL 229 :

This is a decision on the petition, filed July 8, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Dmitry Brant appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to Mr. Brant, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

---

[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.*

The application is being referred to Technology Center AU 2442 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DMITRY BRANT
FISH & RICHARDSON, P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 30 2008

OFFICE OF PETITIONS

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

In re Application of
ASCHKE, et al.
Application No. 10/825,618
Filed: April 16, 2004
Attorney Docket No. **KEKO-0003**

DECISON ON PETITION
UNER 37 CFR 1.137(b)

This is a decision in response to the petition, filed April 17, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned for a failure to timely pay the issue and publication fees on or before September 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2007. Accordingly, the date of abandonment of this application is September 21, 2007.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Petitioner has supplied the reply in the form of payment of the issue/publication fees and the petition fee of $1,540; however, the petition lacks an adequate statement of unintentional delay.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to SCHOTT AG at Hattenbergstrasse 10, Mainz, Germany 55122, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that SCHOTT AG provide within a specified period (*e.g.*, one month) a

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that SCHOTT AG does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

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

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

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

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

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

CC: **MICHAEL J. STRIKER**
STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN WHITE ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD, SUITE 1400
ARLINGTON, VA 22201

OCT 2 7 2008

In re Application of	:	
ASCHKE, et al.	:	
Application No. 10/825,618	:	DECISION ON REQUEST FOR
Filed: April 16, 2004	:	REVOCATION OF POWER
Attorney Docket No. **KEKO-0003**	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed April 17, 2008.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed. In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on April 17, 2008 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL J. STRIKER**
STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Lutz **ASCHKE, et al.**	:	
Application No. 10/825,618	:	DECISION ON PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **KEKO-0003**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2007. Accordingly, the date of abandonment of this application is September 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Michael J. Striker appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Striker desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: **MICHAEL J. STRIKER**
STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/10/09

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10825633 Patent No.: 7293949 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 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.

Formatted: Indent: Left: 1.22"

Comments: _____

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Katherine W Mitchell/ SPE 3634

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT L. FARRIS
REISING, ETHINGTON, BARNES,
KISSELLE & LEARMAN, P.C.
5291 COLONY DRIVE NORTH
SAGINAW, MI 48603

COPY MAILED

JUN 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Kiest, Lauren J.	:	
Application No. 10/825,638	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 7234.3001.002	:	

This is a decision on the petition under 37 C.F.R. § 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 the Notice to File Missing Parts of Application (Notice) mailed June 28, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2004. A Notice of Abandonment was mailed on March 17, 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 Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Mohan Kalkunte	: DECISION ON REQUEST FOR
Patent Number	: 7606161	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1062** 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.

OIPE JC106
NOV 0 5 2004
PATENT & TRADEMARK OFFICE

pet Dec.

PATENT

UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: George Robert Gregory & Robert McClure Love, III
Serial No.: 10/825,658
Filed: April 14, 2004
Title: Method for Making a Termination for a Wire Rope for Mining Equipment

Group Art Unit: 1725
Examiner: Not Assigned
Attorney Docket No.: 1323.01

Approved
Jacqueline M. Stone Director
Technology Center 1700
2/16/05

Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

Honorable Commissioner:

The present Attorneys of record, Wendy K. Buskop and Mr. Christian N. Heausler, wish to request permission to withdraw as the attorneys of record for the above referenced applicant in this case for the reasons stated below:

On October 27, 2004 we sent all Pending Patent Files to our Client's new counsel Mr. George R. Schultz of Schultz & Associates, P.C. at One Lincoln Centre, 5400 LBJ Freeway, Suite 525 of Dallas, Texas 75240. Mr. George R. Shultz received these files and faxed back our letter with written confirmation that he received all pending files on October 28, 2004. This Letter, in which was signed as confirmation of receiving all files is shown as Attachment A.

On October 26, 2004 Mr. George R. Schultz sent us a letter via fax that also enclosed a signed file release letter from Mr. Randy Paroline of ABL Services, Inc. appointing new counsel.

These letters are shown as Attachment B and Attachment C.

Present Mailing Address of Withdrawing Attorney

Please note the present mailing address of the attorneys withdrawing from this case:

BUSKOP LAW GROUP, P.C.
1717 St. James Place, Suite 500
Houston, Texas 77056
(713) 403-7411

Present Mailing Address of New Counsel for Applicant

Inventor in this case:

Mr. George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 525
Dallas, Texas 75240

Telephone: 214-210-5940
Fax: 214-210-5941

REMARKS

We believe adequate notice has been provided to the Applicant to permit our immediate withdrawal.

Respectfully submitted,

Date: 11/1/04

Wendy K. B. Buskop
Patent Attorney, Reg. No. 32,202

Date: 11/1/04

Christian N. Heausler
Patent Attorney, Reg. No. 50,771

NOV 0 5 2004
PATENT & TRADEMARK OFFICE

IFW

BUSKOP LAW GROUP, P.C.

PATENT ATTORNEYS
WENDY K. B. BUSKOP
CHRISTIAN N. HEAUSLER

TRADEMARK ATTORNEY
SUNISHA S. CHOKSI

EXECUTIVE DIRECTOR
RUTH E. GERNHART

Patents and Trademarks
&
Related Matters

1717 St. James Place
Suite 500
Houston, TX 77056

Telephone: (713) 403-7411
Fax: (713) 960-0204

www.buskoplaw.com

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SARAH A. GERNHART

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Writer's Direct Dial:
713.403.7410

November 01, 2004

File: 1323.01

Certificate of First Class Mail

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, PO Box 1450, Alexandria, VA 22313-1450, on the following date: November 01, 2004.

Wendy Buskop
Wendy K. Buskop

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

RE: *Application Serial No. 10/825,658;*
Title: "Method for Making a Termination for a Wire Rope for Mining Equipment;"
Applicant: George Robert Gregory & Robert McClure Love, III.

Sirs:

Enclosed for filing in the above-mentioned application is:

(1) A Request for Permission to Withdraw as Attorney of Record
(2) Attachments A, B, and C; and
(3) A postcard. Please date stamp and return the enclosed postcard to evidence receipt of these materials.

No fees are believed to be due in connection with these materials. However, if funds are deemed necessary, the Examining Attorney is hereby invited to contact the undersigned at 713.403.7411.

Respectfully submitted,

Wendy Buskop
Wendy K. B. Buskop
Reg. No. 32,202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 0 1 2005
Director's Office
Group 3700

Nixon Peabody LLP
401 9th Street, N.W. Suite 900
Washington, DC 20004

In re application of Albert A. Koenig, et al.	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/825,659 Filed: April 16, 2004	:	

For: **GROUND SOURCE HEAT PUMP FIELD DESIGN WITH IMPROVED CONTROL STRATEGIES**

This is a decision on the petition filed on November 16, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 11/30/05

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Charlton Shen
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/825686 received on 06/11/04 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

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Mitsugi Chonan	:	
Application No. 10/825690	:	
Filing or 371(c) Date: 04/16/2004	:	
Attorney Docket Number:	:	
032405R172	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)," filed November 20, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 23, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned June 23, 2007. A Notice of Abandonment was mailed October 23, 2007.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on June 19, 2007, and received by this Office as evidenced by the copy of Applicant's return-receipt postcards. In support of this assertion, Applicant files a copy of the Reply and a copy of his return-receipt postcards acknowledging receipt by this Office of, *inter alia*, an Amendment and Extra Claims fee of $400.00 on June 19, 2007.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Office records also reveal that the Extra Claims fee of $400.00 was received by this Office on June 19, 2007.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3682 for processing of the Amendment, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tarek N. Fahmi
Applied Materials, Inc.
Patent Counsel
P.O. Box 450A
Santa Clara, CA 95052

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of:
LO, Chiwoe, Wayne, et al.
U.S. Application No.: 10/825,696
Filing Date: April 15, 2004
Attorney Docket No.: 6317P090D
For: METHOD AND APPARATUS FOR MULTIPLE CHARGED PARTICLE BEAMS

DECISION ON PETITION
(37 CFR 1.137(b))

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed June 28, 2004, which set a period of reply of two (2) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on August 28, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the reply in the form of a response to the Notice To File Missing Parts Of Nonprovisional Application mailed June 28, 2004 (i.e., an executed declaration and the surcharge for late filing of the declaration); (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of June 28, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to the Office Of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office Of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOEL RIVES LLP
Suite 1100
One Utah Center
201 South Main Street
Salt Lake City, UT 84111

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JUL 3 1 2008

In re Application of	:	
Mabey et al.	:	
Application No. 10/825,711	:	Decision According Status
Filed: April 16, 2004	:	Under 37 CFR 1.47(a)
Attorney Docket No. 60316/11	:	
For: Systems and Methods for Securely	:	
Distributing Highly-Compressed	:	
Multimedia Content	:	

This is a decision on the petition under 37 CFR 1.47(a) filed September 7, 2004. The Office regrets the delay in the issuance of the instant decision.

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.

Technology Center Art Unit 2621 will be informed of the instant decision. Specifically, the examiner will be informed the declaration has been accepted without the signature of inventor Jodie L. Reynolds.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jodie L. Reynolds
728 King Way
Folsom, CA 95630

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JUL 3 1 2008

In re Application of :
Mabey et al. :
Application No. 10/825,711 :
Filed: April 16, 2004 : Letter
Attorney Docket No. 60316/11 :
For: Systems and Methods for Securely :
Distributing Highly-Compressed :
Multimedia Content :

Ms. Reynolds:

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: STOEL RIVES LLP
Suite 1100
One Utah Center
201 South Main Street
Salt Lake City, UT 84111

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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FAIN IP LAW, P.C.
4801 LANG AVE., NE
SUITE 110
ALBUQUERQUE, NM 87109

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SEP 12 2006
OFFICE OF PETITIONS

In re Application of :
Gattis, et al. :
Application No. 10/825,715 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. 4029.001 :
For: TRAINING PAD APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed June 5, 2006, to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the September 29, 2005 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on December 30, 2005. A Notice of Abandonment was mailed on April 5, 2006.

Petitioners allege that the September 29, 2005 non-final Office action was not received at the correspondence address of record.

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

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

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

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the September 29, 2005 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file for the September 29, 2005 non-final Office action was fruitless. It is noted that practitioner Katy Fain has stated on the record that at the time the September 29, 2005 non-final Office action was mailed, she was the sole practitioner located at the correspondence address of record. Ms. Fain has stated on the record that Ms. Mays, the attorney of record, left the firm in July of 2005 and that no mail was being forwarded to Ms. Mays around the time the September 29, 2005 non-final Office action was mailed.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

It is noted that an assignee is attempting to change the power of attorney and correspondence of record. Unfortunately, the assignee has not enclosed a 3.73(b) statement with the June 5, 2006 requests. Therefore, the requests are denied. Please submit a 3.73(b) statement promptly.

Because the Mays and Fain, LLP address is not operational, this decision is being mailed to the address listed on the petition. However, there have been no changes to the correspondence address of record or the empowered attorney of record in Office records.

Since Ms. Fain has responded to the September 29, 2005 non-final Office action, there is no need to re-mail the Office action. After the mailing of this decision, the application will be returned to Technology Center AU 3764 for consideration of the amendment filed on June 5, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/14/07

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/825717** Patent No.: **7210001**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE (Primary Examiner) 2187 Art Unit

cgc

OIPE IAP82
MAY 29 2007
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OK to Enter KNM 6/20/07

In re U.S. Patent No. 7,210,001B2	
Issued: April 24, 2007	Docket No: ADAPP253.CIP
In re application of: Frey et al.	Date: May 22, 2007
Application No: 10/825,717	
Filed: April 16, 2004	
For: METHODS OF AND APPARATUS FOR EFFICIENT BUFFER CACHE UTILIZATION	

CERTIFICATE OF MAILING

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, Alexandria, VA 22313-1450, on May 22, 2007.

Signed: Kay Harlow

Kay Harlow

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT UNDER 37 CFR 1.322

Certificate
MAY 31 2007
of Correction

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

Dear Sir:

Attached in triplicate is Form PTO-1050 (Certificate of Correction) at least one copy of which is suitable for printing. The exact page and line number where the error is shown correctly in the application file is as follows:

1. Page 1 of the specification, at paragraph [0001], at which it is stated that:

"The present application is continuation-in-part of two co-pending applications that are commonly assigned to the assignee of the present invention, the first of which is entitled "Controller Fault Recovery System For A Distributed File System", Application Number 09/691,579, filed October 18, 2000 (the "Parent Application"); and the second of which (the "Continuation Application") is entitled "Controller Fault Recovery System For A Distributed File System", Application Number 10/717,314, filed November 18, 2003, the Continuation Application being a continuation of the Parent Application; the Parent Application being a

MAY 31 2007

continuation-in-part of one co-pending application and one patent, each of which is also commonly assigned to the assignee of the present invention, the one co-pending application being entitled Computer System Storage, Application Number 09/261,708, filed March 31, 1999 (the '708 Application"); and the patent being U.S. Patent 6,530,036, issued March 4, 2003 entitled "Self-Healing Computer System Storage" (the "Patent")"

In contrast, under the heading "Related U.S. Application Data", the captioned issued patent recites that the captioned application is a continuation-in-part of only the Application Number 10/717,314, filed November 18, 2003. Thus, in the "Related U.S. Application Data", the captioned issued patent omits the reference to the other application on which the captioned application and patent is based; namely also being a continuation-in-part of Application Number 09/691,579, filed October 18, 2000.

Please send the Certificate to:

Chester E. Martine, Jr.
MARTINE PENILLA & GENCARELLA, LLP
710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
Customer Number 25920

No fee is believed to be due because the error was of Office mistake. However, the Commissioner is authorized to charge any additional fees that may be due to Deposit Account 50-0805 (Order No. ADAPP253.CIP). A copy of this sheet is enclosed for this purpose.

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP

Chester E. Martine, Jr.
Reg. No. 19,711

710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
Telephone: (408) 774-6908

MAY 3 1 2007

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6997876	2006-02-14	10825719	2004-04-16	PA2739US

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	/Tam Thanh Pham/	Date (YYYY-MM-DD)	2010-07-01
Name	Tam Thanh Pham	Registration Number	50565

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. 6997876
Issue Date: February 14,2006
Application No. 10825719
Filed: April 16,2004
Attorney Docket No. PA2739US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 1,2010 ,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 July 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101-2347

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
Tonya LAMMERS
Application No. 10/825,722
Filed: April 16, 2004
Attorney Docket No. **TONL122469**

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 5, 2009.

The request is **APPROVED**.

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

The request was signed by Margie B. Aoki on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Office action mailed October 17, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **TONYA LAMMERS**
700 EAST EIGHTH STREET, UNIT 14B
KANSAS CITY, MI 64106

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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OFFICE OF PETITIONS

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

In re Patent No. 6,932,027	:	
Issue Date: August 23, 2005	:	
Application No. 10/825,730	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 2664U.001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 03, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

With respect to item 1: In order to accept a delayed maintenance fee in an expired patent, a statement of unintentional delay 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.

Accordingly, the statement of unintentional delay is not in compliance with 37 CFR 1.378(d) and cannot be accepted.

This decision maybe reconsidered if a proper power of attorney is submitted with any renewed petition.

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

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JEFFREY A. LUTTON**
6717 OLD CHESTERBROOK RD.
MCLEAN, VA 22101

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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JEROME D. JACKSON (JACKSON PATENT LAW OFFICE)
211 N. UNION STREET, SUITE 100
ALEXANDRIA VA 22314

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In re Patent No. 6,932,027	:	
Issue Date: August 23, 2005	:	
Application No. 10/825,730	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 233.002	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 07, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 23, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegals Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,735	04/15/2004	Dan Teodosiu	50037.272US01	8818

27488 7590 01/27/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
DAFTUAR, SAKET K

ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
01/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

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JAN 28 2008

TECHNOLOGY CENTER 2100

In re Application of:
Dan TEODOSIU et al.
Appl. No.: 10/825,735
Filed: April 15, 2004
For: EFFICIENT ALGORITHM AND PROTOCOL FOR REMOTE DIFFERENTIAL COMPRESSION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 14 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 14 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
Information Security

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MAY 06 2009

TECHNOLOGY CENTER 2100

Rene A. Pereyra
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of: TEODOSIU, D. et. al.
Application No. **10/825,735**
Filed: April 15, 2004
Docket No. 50037.272US01
Title: EFFICIENT ALGORITHM AND PROTOCOL FOR REMOTE DIFFERENTIAL COMPRESSION

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the renew petition under 37 CFR § 1.59(b), filed on March 16, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

A Petition to Expunge Pursuant to 37 CFR § 1.59 & MPEP § 724.05 ("Previous Petition") in relation to the above-identified application was previously submitted on January 14, 2008 with the documents listed on Exhibit A hereto ("Materials"), which were filed in sealed envelope(s) pursuant to MPEP § 724.02. The petition fee set forth in 37 CFR § 1.17(g) was paid at this time. The Previous Petition was dismissed as being untimely in a Decision on Petition under 37 CFR §1.59.

Petitioner requests that the information listed in Exhibit A hereafter ("Materials") submitted in sealed envelope(s) pursuant to MPEP §724.05, submitted on January 14, 2008, be expunged from the record. Petitioner states that the information contains proprietary material and/or material that are subjected to a protective order which has not been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to **not** be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life 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 regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902.
/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,735	04/15/2004	Dan Teodosiu	50037.272US01	8818

27488 7590 05/06/2009
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
DAFTUAR, SAKET K

ART UNIT	PAPER NUMBER
2451	

MAIL DATE	DELIVERY MODE
05/06/2009	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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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

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JAN 13 2010

In re Application of :
Paul Bruinsma et al. :
Application No. 10/825,736 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. **200309260-1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 March 6, 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 two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 7, 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) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2853 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Gregory J. Nelson
NELSON & ROEDIGER
Suite 110
4500 N. 32nd Street
Phoenix, AZ 85018

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OFFICE OF PETITIONS

In re Application of Mansfield et al. :
Application No. 10/825,772 : Decision on Petition
Filing Date: April 15, 2004 :
Attorney Docket No. 898-P-6 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. A reply was filed April 1, 2006. However, the reply was not timely. Accordingly, the above-identified application became abandoned on January 8, 2006. A Notice of Abandonment was mailed on April 3, 2006.

The instant petition requests revival of the application.

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

Since the one-month extension of time submitted May 1, 2006, was submitted after the application became abandoned, the Office will schedule a refund of the $60 payment.

Technology Center Art Unit 3617 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Dunn and Cynthia E. :
Martin : DECISION REFUSING STATUS
Application No. 10/825,777 : UNDER 37 CFR 1.47(b)
Filed: April 15, 2004 :
For: AUTHENTICATION MECHANISMS FOR :
CALL CONTROL MESSAGE INTEGRITY AND
ORIGIN VERIFICATION

This is in response to the petition under 37 CFR 1.47(b), filed August 27, 2004, regarding non-signing inventor **Jeffrey H. Dunn**.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 15, 2004 without an executed oath or declaration and naming **Jeffrey H. Dunn** and Cynthia E. Martin as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 27, 2004, the instant petition was filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks items (2) and (5),as set forth above.

Regarding Item (2):
The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm"r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). See MPEP 409.03(b).

Regarding Item (5):
As the Employment Agreement with non-signing inventor **Jeffrey H. Dunn** is unsigned, Rule 47 applicant failed to show or provide proof that Lucent Technologies, Inc. (Lucent) 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 signed employment agreement between the

non-signing inventor and Lucent, a copy of a signed assignment agreement showing that the invention disclosed in the application is assigned to Lucent, 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 Lucent.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

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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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2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Dunn and **Cynthia E. Martin** : DECISION REFUSING STATUS
Application No. 10/825,777 : UNDER 37 CFR 1.47(b)
Filed: April 15, 2004 :
For: AUTHENTICATION MECHANISMS FOR CALL CONTROL MESSAGE INTEGRITY AND ORIGIN VERIFICATION :

This is in response to the petition under 37 CFR 1.47(b), filed August 27, 2004, regarding non-signing inventor **Cynthia E. Martin.**

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 15, 2004 without an executed oath or declaration and naming Jeffrey H. Dunn and **Cynthia E. Martin** as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 27, 2004, the instant petition was filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks item (2),as set forth above.

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm"r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). See MPEP 409.03(b).

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of Jeffrey H. Dunn and Cynthia E. Martin Application No. 10/825,777 Filed: April 15, 2004 For: AUTHENTICATION MECHANISMS FOR CALL CONTROL MESSAGE INTEGRITY AND ORIGIN VERIFICATION	DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(b)," filed January 28, 2005 (Certificate of Mailing Date: January 26, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 Thomas J. Onka establishes that the inventors were mailed the application papers, but refused the request that they sign the declaration. In addition, petitioner has shown that Lucent Technologies ("Lucent") has a proprietary interest in the above-identified application with the copy of the employment agreement showing that inventor Martin had an obligation to assign any patent rights to Lucent and, with inventor Dunn, the memorandum of law establishing that a court of competent jurisdiction would award title to Lucent. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that 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(b), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to Technology Center 2600 for examination *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of Jeffrey H. Dunn and Cynthia E. Martin Application No. 10/825,777 Filed: April 15, 2004 For: AUTHENTICATION MECHANISMS FOR CALL CONTROL MESSAGE INTEGRITY AND ORIGIN VERIFICATION	DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(b)," filed January 28, 2005 (Certificate of Mailing Date: January 26, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 Thomas J. Onka establishes that the inventors were mailed the application papers, but refused the request that they sign the declaration. In addition, petitioner has shown that Lucent Technologies ("Lucent") has a proprietary interest in the above-identified application with the copy of the employment agreement showing that inventor Martin had an obligation to assign any patent rights to Lucent and, with inventor Dunn, the memorandum of law establishing that a court of competent jurisdiction would award title to Lucent. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that 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(b), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to Technology Center 2600 for examination *in due course*.

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

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

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United States Patent and Trademark Office
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CARLSON, GASKEY & OLDS, P.C./Alcatel-Lucent
400 W MAPLE RD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: Jeffrey H. Dunn	: DECISION ON REQUEST FOR
Patent Number	: 7620041	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,777	: 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 **1607** 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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MAR 0 6 2007

OFFICE OF PETITIONS

In re Patent of Nee	:	
Patent No. 7,018,696	:	
Issue Date: March 28, 2006	:	Letter
Application No. 10/825,779	:	
Filing Date: April 16, 2004	:	
Attorney Docket No. 7272-59	:	

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."

Petitioner submitted $4,624, including $385 for the deficiency owed for the filing fee. However, the filing fee deficiency is actually $405 ($790 - $385). Therefore, $20 has been charged to petitioner's deposit account.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/3/2008**

TO SPE OF : ART UNIT **1700 (1645)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,018,696**

Attn: Elizabeth Mulvaney

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

***Ok to enter dependency change for claims 82,83 & 84 as req. in COCIN?**

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

Thank You For Your Assistance

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

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

Comments:

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
1794

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ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Russell A. Houser et al	:	
Application No. 10/825,783	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 036624-007	:	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 14, 2005.

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

A review of the file record indicates that the power of attorney to Robert E. Krebs, along with all of the other attorneys associated with the law firm of Thelen Reid & Priest LLP has been revoked by the assignee of the patent application on October 12, 2005. 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/assignee or the current attorneys of record.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
SILLS CUMMIS EPSTEIN & GROSS
ONE RIVERFRONT PLAZA
IP DEPARTMENT
NEWARK, NJ 07102

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THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Houser et al.	:	DECISION ON PETITION
Application No. 10/825,785	:	TO WITHDRAW
Filed: April 16, 2004	:	FROM RECORD
Attorney Docket No. 040027U009CIP3US	:	

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 14, 2005.

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

A review of the file record indicates that on October 12, 2005 the power of attorney to Thelen Reid & Priest, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sills Cummis & Gross P.C.
One Rockefeller Plaza
IP Department – 25th Floor
New York, NY 10020

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THELEN REID & PRIEST LLP
P.O. BOX 64040
SAN JOSE, CA 95164

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Russell A. Houser et al	:	
Application No. 10/825,786	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 036624-009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 14, 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 Robert E. Krebs on behalf of himself and the attorneys associated with the law firm of Thelen Reid & Priest. It is noted that the Power of Attorney submitted on February 14, 2005, was accepted in error on May 20, 2005, since the assignee did not comply with 3.73(b).

In view of the present decision, Robert E. Krebs, along with the other attorneys associated with the law firm of Thelen Reid & Priest, 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).

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 signing inventor at the first copied address below until otherwise properly notified by the applicant/assignee.

The application is being referred to Technology Center AU 3734 for examination in due course.

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:
RUSSELL A. HOUSER
1787 VERDITE STREET
LIVERMORE, CA 94550

cc:
PHILLIP BRAGINSKY, ESQ.
SILLS CUMMINS EPSTEIN AND GROSS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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Robert Krebs
Thelen Reid Brown Raysman & Steiner LLP
225 W. Santa Clara Street
Suite 1200
San Jose, CA 95113

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Russell A. Houser et al.	:	
Application No. 10/825,786	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 036624-009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2007.

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

A review of the file record indicates that the power of attorney to Thelen Reid & Priest LLP has been withdrawn at the request of the withdrawal of attorney of July 14, 2005. Robert Krebs signed the request. 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: **Russell A. Houser**
1787 Verdite Street
Livermore, CA 94550

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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of	:
Li, et al.	:
Application No. 10/825,795	: DECISION ON PETITION
Filed: April 13, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARC-15173-1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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.

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/825,795	04/13/2004	3744	1808	ARC-15173-1	26	2

CONFIRMATION NO. 9102

CORRECTED FILING RECEIPT

OC000000023118316

25186
NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

Date Mailed: 03/27/2007

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)

Jun Li, Sunnyvale, CA;
Meyya Meyyappan, San Jose, CA;
Carlos Dangelo, Los Gatos, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25186**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/390,254 03/11/2003 PAT 7,094,679

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/825,795

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NANOENGINEERED THERMAL MATERIALS BASED ON CARBON NANOTUBE ARRAY COMPOSITES

Preliminary Class

165

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-22-08

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/825795** Patent No.: **7273095**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3744
Art Unit

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JUNG-HUA KUO
ATTORNEY AT LAW
PO BOX 3275
LOS ALTOS CA 94024

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of
Lee, et al. :
Application No. 10/825,828 : DECISION ON
Filed: April 16, 2004 : PETITION
Attorney Docket No. MNOAP001DIV :

This is a decision in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 23, 2007.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the non-final Office action mailed September 8, 2006. No response having been received, the application became abandoned on December 9, 2006. A Notice of Abandonment was mailed on March 26, 2007.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Transmission under 37 CFR 1.8 dated March 8, 2007. In addition, a review of Office records reveals that the fee for a three month extension of time was processed on March 20, 2007.

In view of the above, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required.

The matter is being forwarded to Group Art Unit 3739 for consideration of the Amendment supplied with the instant petition (Certificate of Mailing dated March 8, 2007).

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

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OFFICE OF PETITIONS

In re Application of	:	
Lee Teck Kheng	:	
Application No. 10/825,839	:	DECISION ON PETITION
Filed: 15 April, 2004	:	
Atty Docket No. MI22-2460	:	

This is a decision on the petition filed on 14 July, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 3 March, 2006, for failure to timely reply to the non-final Office action mailed on 2 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 July, 2006.

---

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

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

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

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

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

Petitioners have filed an amendment to the specification and claims as the required reply.

This application is being referred to the Technology Center for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 04/30/2010

Applicant	: Kenneth Moberg	: DECISION ON REQUEST FOR
Patent Number	: 7610405	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/825,850	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1593** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 23 2008

Bozicevic, Field & Francis, LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

In re Application of	:	
Raymond Andersen et al.	:	
Application No. 10/825,858	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. SMAR-036	:	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 April 28, 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 Carol L. Francis, on behalf of all attorneys/agents associated with customer number 24353. All attorneys/agents associated with customer number 24353 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If you would like to receive future correspondence then the proper power of attorney documents must be submitted.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Karl Hermanns
Seed IP Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, WA 98104

cc: Raymond Andersen
4048 West 32nd Avenue
Vancouver, British Columbia
CANADA V6S 1Z6

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/825,858	04/16/2004	Raymond Andersen	SMAR-036

CONFIRMATION NO. 8204

POWER OF ATTORNEY NOTICE

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

OC000000030592379

Date Mailed: 06/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/28/2008.

- 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.

/kainabinet/

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

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE
SUITE 500
SPOKANE WA 99201

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SEP 02 2008

In re Application of	:	
Morris et al.	:	DECISION ON PETITION
Application No. 10/825,859	:	
Filed: April 15, 2004	:	
Atty Docket No. MS1-1976US	:	

This is a decision on the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT filed April 4, 2005. This petition was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to file a reply to the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed June 28, 2004. This Notice required applicants to submit the statutory basic filing fee, an executed oath or declaration and the late surcharge. This Notice set a two month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective August 29, 2004. A courtesy Notice of Abandonment was mailed on March 18, 2005.

In response, applicants timely filed the instant petition to withdraw the holding of abandonment within 2 months of the mailing of the notice of abandonment. On petition, applicants submit the response to the notice of missing parts filed on July 6, 2006, a copy of the certificate of transmission, and the auto-reply facsimile transmission. In effect, applicants maintain that a reply was timely faxed to the Office on July 6, 2004. The petition does not include a statement by the person who faxed the response.

Nonetheless, petitioner's evidence and arguments have been considered and it is concluded that the requirements of 37 CFR § 1.8(b) have been met. Petitioner has shown to the satisfaction of the Director that the response should be considered timely filed by facsimile transmission on July 6, 2004. The Auto-Reply Facsimile Transmission confirms that a 6-page response was received in the USPTO on July 6, 2004 at 6:26:25 in the evening. The cover sheet itemizes the 6 pages as a fee transmittal, a notice to file missing parts and an executed declaration. Thus, the response was timely and proper.

In view thereof, the Notice of Abandonment mailed March 18, 2005 and the holding of abandonment are **withdrawn**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Application Processing has been advised of this decision. The application file is, thereby, forwarded to the Office of Patent Application Processing to withdraw the holding of abandonment and for processing of the responses to the Notice to File Missing Parts resubmitted on petition filed April 4, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 05/04/2010

Applicant	: Jason W. Chin	: DECISION ON REQUEST FOR
Patent Number	: 7618775	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/825,867	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **647** 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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Guerin & Rodriguez LLP
5 Mount Royal Avenue
Mount Royal Office Park
Marlborough, MA 01752

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Qui
Application No. 10/825,883
Filed: April 17, 2004
Attorney Docket No. NXL-001

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

On March 18, 2005, the Office mailed a Notice of Abandonment to petitioner indicating that the above-identified application was abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on June 28, 2004. In response, on May 16, 2005, petitioner submitted the present petition, one replacement drawing, an executed Power of Attorney and Correspondence Address Indication Form, and the petition fee. Petitioner explained that he never received the Notice to File Corrected Application Papers. Petitioner stated that he requested a copy of the Notice to File Corrected Application Papers after receiving the Notice of Abandonment.

On June 14, 2005, the Office mailed a "Withdrawal of Previously Sent Notice," which stated that the Notice of Abandonment mailed on March 18, 2005, was sent in error and was withdrawn. In addition, the Office mailed a filing receipt.

In view of the "Withdrawal of Previously Sent Notice" mailed on June 14, 2005, the petition is unnecessary because the application is not abandoned. Accordingly, the petition is **dismissed** as involving a moot issue. The application will retain its pending status. The $750.00 petition fee will be refunded by treasury check in due course. The Office apologizes for any inconvenience the error may have caused.

This matter is being referred to the Technology Center Art Unit 1645 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DLA PIPER LLP (US)
2000 UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

In re Patent No. 6909819	:	
Issue Date: 06/21/2005	:	
Application Number: 10/825897	:	ON PETITION
Filing Date: 04/16/2004	:	
Attorney Docket Number:	:	
2102393-991180	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 7, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 21, 2009, for failure to pay the first 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.

Receipt of the Notification of Loss of Entitlement to Small Entity Status Under 37 C.F.R. 1.27(g)(2) is acknowledged. Small entity status will no longer apply.

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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Schoenberg Fisher Newman and Rosenberg LTD
222 S Riverside Plaza Ste 2100
Chicago, IL 60606

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
James F. Nagy	:	
Application No. 10/825,903	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 28957/04000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2006.

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

A review of the file record indicates that the applicant of the patent application on February 21, 2006 has revoked the power of attorney to Joan N. Drew and those practitioners associated with customer number 24,024. 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 Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

Cc: Courtney J. Miller
CALFEE, HALTER, & GRISWOLD LLP
1100 Fifth Third Center
21 East State Street
Columbus, Ohio 43215

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KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS CA 91360

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OFFICE OF PETITIONS

In re Application of

KEENAN, James J.
Application No. 10/825,907
Filed: April 15, 2004
Attorney Docket No. **381-27-065**

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 12, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, file is being transferred to another firm, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVE DIVINE**
LEE & HAYES
421 WEST RIVERSIDE
SUITE 500
SPOKANE, WA 99201

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OFFICE OF PETITIONS

In re Application of :
Keenan et al. :
Application No. 10/825,907 : DECISION ON PETITION
Filed: April 15, 2004 :
Title: Thermally Insulated Cabinet and :
Method for Inhibiting Heat Transfer

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

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of May 3, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and three month extension of time were filed on November 2, 2006. An Advisory Action mailed on December 11, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on November 4, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The amendment submitted with the instant petition will be forwarded to Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
HUSTON, et al.	:	
Application No. 10/825,918	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 13833	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (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, Catherine L. Gemrich 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).

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

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER HUSTON
632 MCKAYS COURT
BRENTWOOD, TN 37027

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

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OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING
Vanfleet et al.	:	WITHDRAWAL OF PETITION
Application No. 10/825,950	:	UNDER 37 CFR 1.47
Filed: April 16, 2004	:	and
Atty Docket No.020375-050300US	:	DECISION ON PETITION
	:	UNDER 37 CFR 1.48

This is in response to the "PETITION TO ACCEPT APPLICATION ON BEHALF OF A JOINT INVENTOR WHO CANNOT BE REACHED UNDER 37 C.F.R. § 1.47(a)" and the "REQUEST TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. § 1.48(a)," both filed June 17, 2005. Prior to a decision being rendered on these petitions, on September 19, 2005, applicants filed a "REQUEST TO WITHDRAW PETITION TO ACCEPT APPLICATION ON BEHALF OF A JOINT INVENTOR WHO CANNOT BE REACHED UNDER 37 CFR 1.47(A)."

The petition under § 1.47(a), which is properly treated as a petition under § 1.183 to waive the requirement of § 1.48(a)(3) that the declaration be signed by all of the actual inventors, is **DISMISSED** without consideration on the merits.

The petition under § 1.48(a) is **GRANTED**.

The above-identified application was filed on April 16, 2004, without a properly executed oath or declaration. Steven VanFleet, John Mascavage, Matthew Byrne, Diane Wing and Cassandra Mollett were identified as the joint inventors. Accordingly, on June 28, 2004, applicants were mailed a "Notice to File Missing Parts of Application," requiring an executed

oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under §1.136(a). On August 30, 2004, applicants timely responded with declarations in compliance with § 1.63, executed by all 5 joint inventors.

However, on June 17, 2005, applicants filed the instant "Request to Correct Inventorship …" and "Petition under § 1.47(a)." Pursuant to the request filed September 19, 2005, the petition under § 1.47(a) will not be considered.

37 C.F.R. § 1.48(a) provides that:

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The request to correct the inventorship requested that omitted inventors Blake Benton, Timothy Horton, Susan Nelson, Suzanne Rogers, Rhonda Sargent, Martin Stivers and Gary Trainor be added. The request included a statement from each of the added inventors that the error in inventorship occurred without

deceptive intention on his or her part. The request as filed on June 17, 2005, included a declaration executed by all of the joint inventors, except inventor Mascavage. However, on September 19, 2005, applicants supplied such a declaration executed by inventor Mascavage. (Accordingly, no consideration under § 1.47 is necessary). Further, the request included payment of the processing fee, and a written consent of assignee with 3.73(b) statement. The written consent filed June 17, 2005 did not reference the correct application. Pursuant to a telephone request by the undersigned, on March 15, 2006, petitioner submitted a written consent of assignee referencing this application.

It is concluded that applicants have met the requirements of § 1.48 to correct the inventorship.

The petition fee for consideration under § 1.48 has been charged to petitioner's Deposit Account, as authorized.

Office records indicate that a corrected filing receipt reflecting the correction of inventorship was mailed on March 22, 2006.

The application will be examined 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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OFFICE OF PETITIONS

In re Application of
Steven L. Vanfleet, John J. Mascavage, Matthew T. Byrne, Diane Wing, Cassandra J. Mollett, Suzanne Rogers, Blake Benton, Timothy Horton, Susan M. Nelson, Rhonda D. Sargent, Martin Stivers, and Gary J. Trainor
Application No. 10/825,960
Filed: April 16, 2004
Attorney Docket Number: 020375-050200US
Title: METHODS AND SYSTEMS FOR PRIVATE LABEL TRANSACTION PROCESSING

DECISION ON TWO PETITIONS UNDER 37 C.F.R. §§1.47(a) and 1.48(a)

This is in response to the two petitions under 37 C.F.R. §§1.47(a)[1] and 1.48(a)[2], concurrently filed August 18, 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.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;

The above-identified application was filed on April 16, 2004, identifying Steven L. Vanfleet, John J. Mascavage, Matthew T. Byrne, Diane Wing, and Cassandra J. Mollett as joint inventors. No oath or declaration was submitted on filing. On June 25, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

On August 30, 2004 (the response contained a certificate of mailing dated August 25, 2004), Petitioner submitted the associated surcharge, the basic filing fee, additional claim fees, and an oath that was executed by each of the joint inventors.

The petition under 37 C.F.R. §1.47(a):

With the present petition, Petitioner has submitted the petition fee, the surcharge, additional claim fees, a statement of facts, and a declaration which has been executed by each of the joint inventors save Mr. Mascavage.

Petitioner has met requirements (1) - (3), and (5) above.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to either present the non-signing inventor with a complete copy of the application or locate the non-signing inventor. Petitioner sent the declaration to the inventor via e-mail and postal mail, but a complete copy of the application was not included. Furthermore, Petitioner learned that the non-signing inventor no longer resided at the last known address, yet it does not appear that any effort was made to locate the same.

Rule 47 applicant will need to attempt to verify the address of the non-signing inventor or determine her forwarding address and send a complete copy of the application papers to that address for consideration by the inventor[3]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Alternatively, Petitioner could send a complete copy of the application to the e-mail address of the non-signing inventor.

Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should

---

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

3 See MPEP 409.03(d).

submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[4].

As such, the petition under 37 C.F.R. §1.47(a) must be **DISMISSED**.

The petition under 37 C.F.R. §1.48(a):

With the present petition, Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, a statement from each person being added as an inventor, an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.475, the petition fee, and the written consent of the assignee pursuant to 37 C.F.R. §3.73(b).

However, the petition under 37 C.F.R. §1.48(a) cannot be granted until the requirements of 37 C.F.R. §1.47(a) have been satisfied.

As such, the petition under 37 C.F.R. §1.48(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §§1.47(a) and 1.48(a)," 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). This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski and may be submitted by mail[6], hand-delivery[7], or facsimile[8].

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

4 See MPEP 409.03(d).
5 The declaration submitted with the present petitions was not executed by joint inventor Mascavage. As such, the petition under 37 C.F.R. §1.47(a) was filed.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 571-273-8300 - please note this is a central facsimile number.

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Aaron D. Markworth	: DECISION ON REQUEST FOR
Patent Number	: 7648520	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,962	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **978** 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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One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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NOV 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Bennie L. Farmer	:	
Application No. 10/825,967	:	DECISION ON PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 116897-29	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

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 references to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed applications to this application, are required.

Relative to the priority claim to application 09/638,177, application 09/638,177 is noted as being abandoned on July 21, 2003, yet application 10/690,459,which claimed that benefit of application 09/638,177 was not filed until October 20, 2003. A review of the file record for application 09/638,177 revealed that a non-final rejection was mailed on April 18, 2003, allowing a shortened statutory period for reply of three months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). On October 22, 2003 (certificate of mailing date October 20, 2003), a "Conditional Petition and Fee for Extension of Time in Parent Case that is to be Abandoned when Filing New Application Claiming Its Benefit" which authorized deposit account 15-0450 to be charged for an necessary extension of time to establish co-pendency between application 09/638,177 and application 10/690,459. It does not appear that the fee for the extension of time within the third month that is necessary to establish co-pendency between application 09/638,177 and application 10/690,459 was ever charged to deposit account 15-0450. Accordingly, deposit account 15-0450 will be charged $475.00 for the extension of time within the third month making the date of abandonment for application 09/638,177 October 19, 2003, and establishing co-pendency between application 09/638,177 and 10/690,459.

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

By mail: Mail Stop PETITIONS
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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

Any questions concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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Suite 300
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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:
Bennie L. Farmer	:
Application No. 10/825,967	: DECISION ON PETITION
Filed: April 16, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 116897-29	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications 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 either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Kenya A. McLaughlin at (571) 272-3222.

Charles Pearson
Director
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Bennie L. Farmer.	:	
Application No. 10/825,967	:	DECISION ON PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 116897-29	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition.

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

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

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

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

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 is **GRANTED**.

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

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222. 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 2600, Art Unit 2612 for appropriate action on the amendment filed February 22, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

Charles Pearson
Director
Office of Petitions

Enclosure: 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
10/825,967	04/16/2004	2612	635	116897.00029	31	5

CONFIRMATION NO. 8225

CORRECTED FILING RECEIPT

OC000000025458819

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Date Mailed: 08/20/2007

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

Applicant(s)

Bennie L. Farmer, Ann Arbor, MI;

Power of Attorney:

Edwin Oldham--22003
Michael Minns--31985
Scott Oldham--32712
Mark Watkins--33813
Richard Gaum--39199
John Cunniff--42451
Robert Clark--45835
David Muzilla--50914
Amanda Wilcox--53772
Christopher Mitchell--54946

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/463,380 04/16/2003
and is a CIP of 10/690,459 10/20/2003
which is a CON of 09/638,177 08/11/2000 ABN

Foreign Applications

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 US10/825,967

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

AUTOMATED CONSUMER TO BUSINESS ELECTRONIC MARKETPLACE SYSTEM

Preliminary Class

340

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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SAN FRANCISCO CA 94111-3834

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
VanFleet et al.	:	
Application No. 10/825,971	:	ON PETITION
Filed: 16 April, 2004	:	
Atty Dckt No. 020375-050000US	:	

This is a decision on the petitions filed on 17 June, 2005, under 37 CFR 1.47(a) and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48, and 1.183."

On 16 April, 2004, the above-identified application was filed without an executed declaration. On 30 August, 2004, a declaration under 37 CFR 1.63 was filed naming Steven VanFleet, John J. Mascavage, Margaret Weichert, Matthew T. Byrne, Diane Wing, and Cassandra J. Mollett as joint inventors.

On 17 June, 2005, petitions were filed, whereby petitioners seek to add Blake Benton, Timothy Horton, Susan M. Nelson, SuZanne Rogers, Rhonda D. Sargent, Martin Stivers, and Gary J. Trainor as joint inventors. Petitioners concurrently filed a petition stating that joint inventor Mascavage cannot be located to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3).

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

In regards to item (2), the declaration filed with the present petition is defective in that it states that the name of the fifth named inventor is "John J. Mascavage III", while the declaration signed by joint inventor Mascavage states his name as "John J. Mascavage". As such, the name of the inventor appears to be different on the supplemental declaration. If joint inventor Mascavage's name was incorrectly stated on the original declaration, a grantable petition to correct the inventor's name under 37 CFR 1.182 must be filed. If inventor Mascavage's name was misstated on the supplemental declaration, a new declaration properly stating Mascavage's name, signed by all of the signing inventors, must be filed with a renewed petition.

In regards to item (4), it is unclear whether the statement of consent of the assignee was signed by an individual with authority to sign on behalf of the assignee. The statement must be signed by an officer of the corporation (president, vice president, secretary, or treasurer). In this case, the statement was signed by Ken Algiene, Assistant Secretary. It is also noted that the statement does not state that the person signing is authorized to sign on behalf of the assignee, nor has proof of authority to sign the statement of consent been provided. Likewise, although a statement under 37 CFR 3.73(b) has been provided and states that the individual signing it is authorized to do so, the statement of consent of the assignee is not signed by a person with express or implied authority to do so. As such, a new statement of consent of the assignee, signed by a person with authority to sign on behalf of the assignee, must be provided with a renewed petition.

Petition Under 37 CFR 1.183.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by joint inventor Mascavage, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As stated above, the supplemental declaration is defective in that it states a different name for joint inventor Mascavage than was stated on the original declaration executed by the joint inventor. A new oath or declaration and/or a petition under 37 CFR 1.182 to correct the inventor's name, if appropriate, must be filed.

Additionally, in the event that the application papers are returned as undeliverable, petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if any inventor no longer lives at the last known address, petitioners may show diligent efforts by use of e-mail, internet, or telephone searches to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Petitioners should show that efforts were made to locate a more current address for joint inventor Mascavage.

A copy of the declaration, as indicated above, should be sent to the non-signing inventor for review and with instructions that

the non-signing inventor sign and return the declaration. A copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners should provide proof that the inventor refuses to sign the declaration after receiving the application papers. If there is a written refusal, petitioner should submit a copy of the written refusal. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Additionally, as the present petition requires treatment under 37 CFR 1.183 rather than 1.47, a petition fee of $400.00 pursuant to 37 CFR 1.17(f) is due. Counsel's deposit account, No. 20-1430, will be charged the additional $200.00 for the petition under 37 CFR 1.183 as authorized on the fee transmittal form filed on 30 August, 2004.

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

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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 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
VanFleet et al.	:	
Application No. 10/825,971	:	ON PETITION
Filed: 16 April, 2004	:	
Atty Dckt No. 020375-050000US	:	

This is a decision on the renewed petitions filed on 19 September, 2005, under 37 CFR 1.47(a) and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition under 37 CFR 1.48(a) is **GRANTED**.

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

On 16 April, 2004, the above-identified application was filed without an executed declaration. On 30 August, 2004, a declaration under 37 CFR 1.63 was filed naming Steven VanFleet, John J. Mascavage, Margaret Weichert, Matthew T. Byrne, Diane Wing, and Cassandra J. Mollett as joint inventors.

On 17 June, 2005, petitions were filed, whereby petitioners seek to add Blake Benton, Timothy Horton, Susan M. Nelson, SuZanne Rogers, Rhonda D. Sargent, Martin Stivers, and Gary J. Trainor as joint inventors. Petitioners concurrently filed a petition stating that joint inventor Mascavage cannot be located to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3). The petitions were dismissed on 19 July, 2005.

On 19 September, 2005, the present request for reconsideration was filed. Petitioners have now provided a declaration signed by joint inventor Mascavage, and have stated that while the original declaration incorrectly listed joint inventor Mascavage's full name as "John J. Mascavage," his name is "John J. Mascavage,

III." Petitioners have also provided a consent of the assignee signed by Ken Algiene, Vice President of assignee First Data Corporation.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As the required items have now been provided, the petition under 37 CFR 1.48(a) is granted.

Petition Under 37 CFR 1.183.

As joint inventor Mascavage has now signed the supplemental declaration, the petition under 37 CFR 1.183 is unnecessary and therefore will be dismissed as moot.

A corrected Filing Receipt, listing the inventive entity, is enclosed for petitioner's records.

The application will be referred to Technology Center Art Unit 3621 for further processing.

Telephone inquiries related to this decision 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

UNITED STATES DEPARTMENT OF COMMERCE
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

Mail Date: 04/21/2010

Applicant	: Steven L. VanFleet	: DECISION ON REQUEST FOR
Patent Number	: 7580857	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/825,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1018** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

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OFFICE OF PETITIONS

In re Application of
Sebastian Janssen
Application No. 10/825,991
Filed: April 16, 2004
Attorney Docket No. NY-MET 206-US

DECISION ON PETITION

This is a decision on the petition filed August 13, 2004, requesting that the above-identified application be accorded a filing date of April 16, 2004.

The application was deposited on April 16, 2004. However, on July 19, 2004, Initial Patent Examination Division mailed a Notice stating that a filing date had not been accorded to the application papers since the application was deposited without drawings.

In response, on August 13, 2004, the present petition and requisite petition fee were filed. Petitioner argues that two (2) sheets of drawings were included with the application papers deposited on April 16, 2004. As evidence thereof, petitioner submitted a copy of his postcard receipt which acknowledges receipt of two (2) sheets of drawings on April 16, 2004. Petitioner requests that the application, including the two (2) sheets of drawings, be accorded a filing date of April 16, 2004. A copy of the two (2) sheets of drawings containing Figures 1 and 2 was also submitted.

A review of the application file failed to uncover any sheets of drawings among the application papers deposited April 16, 2004. However, the evidence is convincing that the application papers deposited on April 16, 2004 included two (2) sheets of drawings which were subsequently misplaced in the PTO. Therefore, the application was complete on filing and entitled to a filing date of April 16, 2004.

In view of the above, the petition is granted. The two (2) sheets of drawings consisting of Figures 1 and 2 submitted with the petition will be used for examination purposes.

The Notice mailed July 19, 2004, was sent in error and is hereby vacated. Since the petition was a result of PTO error, the $130.00 petition fee is being refunded to counsel's deposit account No. 50-0624.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of April 16, 2004, using the application papers filed April 16, 2004 and the two (2) sheets of drawings filed August 13, 2004, and an indication on the bibliographic data sheet that (2) sheets of drawings were included on filing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to Initial Patent Examination Division 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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of
Rokhvarger, Anatolye E.
Application No. 10/826,001
Filed: April 17, 2004
For: **SINTERED CERAMIC COMPOSITE LEAD WITH SUPERCONDUCTIVE NANO-ARCHITECTURE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age), filed April 2, 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 executed by Ilya Zborovsky on behalf of Mr. Rokhvarger, stating that the inventor is over 65 years of age. Ilya Zborovsky is not the applicant and no other evidence, as indicated in MPEP §708.02, IV above, was provided to support the petition.

Accordingly, the petition is **DENIED**.

Petitioner is given **TWO MONTHS** from the date of the decision to supplement the petition with the appropriate evidence.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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SCOTT R. WILSON
912 WITTER ST.
PASADENA, TX 77506

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Anatoly E. Rokhvarger et al	:	TO MAKE SPECIAL UNDER
Application No. 10/826,001	:	37 CFR 1.102(c)(1)
Filed: April 17, 2004	:	
For: SINTERED CERAMIC COMPOSITE LEAD WITH SUPERCONDUCTIVE NANO-ARCHITECTURE	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed January 8, 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 **DISMISSED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of a driver's license. However, the birth date is not clear.

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.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to Technology Center Art Unit 2611 for action in its regular turn.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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OFFICE OF PETITIONS

In re Application of	:	
Anatoly E. Rokhvarger et al	:	
Application No. 10/826,001	:	DECISION ON PETITION
Filed: April 17, 2004	:	TO MAKE SPECIAL
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c), filed June 12, 2006 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of a driver's license. However, the birth date is not clear.

The change of correspondence address submitted on July 6, 2005 is not accepted. Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

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

The application is being forwarded to the Technology Center Art Unit 1751 for action in its regular turn.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Scott R. Wilson
912 Witter St.
Pasadena, TX 77506

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

In re Application of	:	
James R. Braig et al	:	
Application No. 10/826,006	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. OPTIS.084A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/171,205.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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APPLIED MATERIALS/BLAKELY
PATENT COUNSEL, LEGAL AFFAIRS DEPT.
P.O. BOX 450A
SANTA CLARA, CA 95054

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OFFICE OF PETITIONS

In re Application of	:	
Chiwoei Wayne Lo et al	:	
Application No. 10/826,018	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. 6317P090D2	:	

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

The petition is **DISMISSED** AS MOOT.

On June 28, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" ("6/28/04 Notice"), stating that the oath or declaration is missing.

On March 18, 2005, OIPE withdrawal the June 28, 2004 Notice and issued a corrected Notice. The Notice set a period for reply of two (2) months from the mail date of the corrected Notice.

On May 31, 2005, a signed declaration and the required surcharged were filed. The 2-month period for reply is extendable under 37 CFR 1.136(a). Therefore, applicants had until October 18, 2005 to submit the requested oath or declaration.

The fee transmittal filed with the instant petition contains a general clause authorizing the USPTO to charge to Deposit Account No. 02-2666 "any additional fee(s) ... 1.17, 1.18 and 1.20." Because of this general authorization, the reply period for the 03/18/05 Notice was extended to June 18, 2005. Consequently, the application did not become abandoned, rendering the petition to revive subject to dismissal as moot.

The $1,500 petition fee has been credited to Deposit Account No. 02-2666. The $120 extension-of-time fee has been charged to the same account.

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

This matter is being referred to Technology Center AU 2881 for examination in due course.

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

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THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Houser et al.	:	DECISION ON PETITION
Application No. 10/826,028	:	TO WITHDRAW
Filed: April 16, 2004	:	FROM RECORD
Attorney Docket No. 12080027P009aUS	:	

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 14, 2005.

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

A review of the file record indicates that on October 12, 2005 the power of attorney to Thelen Reid & Priest, 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: Sills Cummis & Gross P.C.
One Rockefeller Plaza
IP Department – 25th Floor
New York, NY 10020

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

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OFFICE OF PETITIONS

In re Application of	:	
Hiroyasu Jobetto, et al.	:	
Application No. 10/826,039	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No.: 04236/LH	:	

This is a decision on the petition, filed by the Electronic Filing System (EFS) on February 5, 2007, to withdraw the above-identified application from issue under 37 CFR 1.313(c)(2).

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 9, 2007, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

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

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PRICE, HENEVELD, COOPER, DEWITT, & LITTON,
LLP/GENTEX CORPORATION
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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In re Application of	:
Fogg et al.	: DECISION ON APPLICATION
Application No. 10/826,047	: FOR
Filed: April 16, 2004	: PATENT TERM ADJUSTMENT
Atty. Dkt. No. GEN10 P-459	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.703(a)(6)," filed on June 20, 2008. Applicants request that the initial determination of patent term adjustment be corrected by seventy-one (71) days from one hundred twenty-seven (127) days to one hundred ninety-eight (198) 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) at the time of mailing of the Notice of Allowance is ONE HUNDRED NINETY-EIGHT (198) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 22, 2008, the Office mailed a 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 was 127 days (239 days of Office delay reduced by 112 days of applicant delay). The instant application for patent term adjustment was timely filed.[1]

Applicants assert that a reduction in patent term adjustment of 71 days for the filing of the amendment after a non-final Office action on May 15, 2007, three (3) months and 71 days after the

[1] PALM Records indicate that the issue fee was paid on June 30, 2008.

mailing of a non-final Office action on December 5, 2006, is incorrect, because a new non-final Office action, which reset the period for reply, was mailed on February 15, 2007

Applicants' argument is well taken. The Office action mailed on February 15, 2007, set a new time period for reply. As the reply filed on May 15, 2007, was filed within three (3) months of the mailing date of the Office action mailed on February 15, 2007, no reduction in patent term adjustment for the filing of the response filed on May 15, 2007, is warranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED NINETY-EIGHT (198) days (231 days of PTO delay, reduced by 41 days of Applicant delay).

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 for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, 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 regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PALM Calculation

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 20:01:22

PTA Calculations for Application: 10/826047			
Application Filing Date:	04/16/2004	PTO Delay (PTO):	239
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	112
Post-Issue Petitions:	0	Total PTA (days):	198
PTO Delay Adjustment:	71		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	71		
72	04/22/2008	MAIL NOTICE OF ALLOWANCE			
71	04/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	04/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
69	04/21/2008	ISSUE REVISION COMPLETED			
68	04/17/2008	DOCUMENT VERIFICATION			
67	04/08/2008	NOTICE OF ALLOWABILITY			
66	03/27/2008	DATE FORWARDED TO EXAMINER			
65	03/20/2008	AMENDMENT AFTER FINAL REJECTION			
64	01/22/2008	MAIL FINAL REJECTION (PTOL - 326)			
63	01/17/2008	FINAL REJECTION			
62	11/07/2007	DATE FORWARDED TO EXAMINER			
61	10/31/2007	RESPONSE AFTER NON-FINAL ACTION			
60	09/17/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	07/31/2007	MAIL NON-FINAL REJECTION			
58	07/23/2007	NON-FINAL REJECTION			
57	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	06/25/2007	REFERENCE CAPTURE ON IDS			
55	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		41	52
54	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	05/18/2007	DATE FORWARDED TO EXAMINER			
52	05/15/2007	RESPONSE AFTER NON-FINAL ACTION		71	46

51	02/15/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
50	02/15/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
49	02/06/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	02/13/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
47	01/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	12/05/2006	MAIL SUPPLEMENTAL NON-FINAL ACTION			
45	12/05/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	11/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	11/29/2006	SUPPLEMENTAL NON-FINAL ACTION			
42	11/02/2006	MAIL NON-FINAL REJECTION			
41	10/30/2006	NON-FINAL REJECTION			
40	08/23/2006	DATE FORWARDED TO EXAMINER			
39	08/23/2006	RESPONSE AFTER NON-FINAL ACTION			
38	05/25/2006	MAIL SUPPLEMENTAL NON-FINAL ACTION			
37	05/24/2006	SUPPLEMENTAL NON-FINAL ACTION			
36	05/19/2006	MAIL NON-FINAL REJECTION			
35	05/15/2006	NON-FINAL REJECTION			
34	02/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	12/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	04/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	03/08/2006	DATE FORWARDED TO EXAMINER			
29	03/02/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
28	02/10/2006	MAIL RESTRICTION REQUIREMENT	239		-1
27	02/06/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
26	10/31/2005	MISCELLANEOUS INCOMING LETTER			
25	02/08/2005	REFERENCE CAPTURE ON IDS			
24.7	02/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	02/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
23	12/30/2004	REFERENCE CAPTURE ON IDS			
22.7	12/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21.7	08/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	09/20/2004	TRANSFER INQUIRY TO GAU			
18	09/06/2004	TRANSFER INQUIRY TO GAU			
17	08/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	04/16/2004	REFERENCE CAPTURE ON IDS			
15.7	04/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/09/2004	REFERENCE CAPTURE ON IDS			
12	06/28/2004	APPLICATION RETURN FROM OIPE			
11	06/28/2004	APPLICATION RETURN TO OIPE			
10	06/28/2004	APPLICATION RETURN FROM OIPE			
9	06/28/2004	APPLICATION IS NOW COMPLETE			
8	06/28/2004	APPLICATION RETURN TO OIPE			
7	06/25/2004	APPLICATION DISPATCHED FROM OIPE			
6	06/28/2004	APPLICATION IS NOW COMPLETE			
5	05/20/2004	CLEARED BY L&R (LARS)			
4	05/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/18/2004	CASE CLASSIFIED BY OIPE			
2	04/25/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/16/2004	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090414

DATE : 4/2/09

TO SPE OF : ART UNIT 2885

SUBJECT : Request for Certificate of Correction for Appl. No.: 10826047 Patent No.: 7488099 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: N/A

JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER

AU 2885

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OFFICE OF PETITIONS

JACQUELINE S. LARSON
P.O. BOX 2426
SANTA CLARA, CA 95055-2426

In re Application of	:	
Garth Meier et al	:	
Application No. 10/826,055	:	DECISION ON PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MEIE-003P	:	

This is a decision on the petition, filed July 28, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on February 18, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Jacqueline S. Larson
245 Avington Road
Alameda, CA 94502

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SEP 23 2008

In re Application of	:	
Garth Meier, et al.	:	
Application No. 10/826,055	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. MEIE-003P	:	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 **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 Jacqueline S. Larson 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 Garth Meier at the address indicated below.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Garth Meier**
688 29-1/2 Road
Grand Junction, CO 81504

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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
10/826,055	04/16/2004	Garth Meier	MEIE-003P

CONFIRMATION NO. 9461

POWER OF ATTORNEY NOTICE

23979
JACQUELINE S LARSON
245 AVINGTON ROAD
ALAMEDA, CA 94502

OC000000032221875

Date Mailed: 09/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/13/2008.

- 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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Paper No. 090704

Glen R. Gallinger
7420 Milner Dr. #1000
Colorado Springs, CO 80920

OCT 15 2004

In re Application of:	:	
Dan J. Jewell, et al	:	DECISION ON PETITION
Serial No.: 10/826068	:	TO MAKE SPECIAL
Filed: April 19, 2004	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 19, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from Glen F. Gallinger, attorney of record stating that the Judith D. Jewell is sixty-five (65) years of age or more. In addition, a copy of a birth certificate for Judith D. Jewell is included as evidence.

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 Hien Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DCM

In re Application of Rashida A. Karmali Serial Number: 10/826,083 Filed: April 16, 2004 For: SPECIMEN COLLECTING, PROCESSING AND ANALYTICAL ASSEMBLY	: : : : : : :	PETITION UNDER M.P.E.P.708.02 X

This is in response to the petition filed April 23, 2004, requesting that the above-identified application be granted Special Status under section 708.02 X of the MPEP and 37 CFR 1.17(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 X of the MPEP has not been met. Specifically, the petition was not accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer. See MPEP 708.02 X.

The application remains in the status of a new application awaiting action in its regular turn. Applicant is 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.

Accordingly the petition is **DENIED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Rashida A. Karmali
13th Floor
99 Wall Street
New York NY 10005

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LAW OFFICE OF ADRIENNE B. NAUMANN
8210 NORTH TRIPP
SKOKIE, IL 60076

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
James G. Sullivan :
Application No. 10/826,093 :
Filed: July 16, 2004 :
Attorney Docket No. N/A :

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

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

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

Telephone inquiries concerning this matter may be directed to Retta Williams at (703) 306-5594.

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

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OFFICE OF PETITIONS

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

In re Patent No. 7,557,143	:	
Ryono, et al.	:	DECISION DISMISSING
Application No. 10/826,100	:	REQUEST FOR
Issue Date: July 7, 2009	:	RECONSIDERATION OF
Filed: April 15, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
LA0120 NP	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 C.F.R §§ 1.181 & 1.705(d), filed August 5, 2009. Patentees request that the determination of patent term adjustment be corrected from six hundred fifty-three (653) days to one thousand seven (1,007) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 653 days.

BACKGROUND

This application was filed on April 15, 2004. A Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on April 3, 2008. On July 7, 2009, the application matured into U.S. Patent No. 7,557,143, with a revised patent term adjustment of 653 days. The Office determined that the 353 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2]

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under

overlaps with the 682 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2)[3,4] accorded prior to the filing of the request for continued examination. A period of adjustment of 101 days of Office delay subsequent to the filing of the request for continued examination was entered pursuant to 37 CFR 1.702(a)(2). No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 29 days, the patent issued with a revised patent term adjustment of 653 ((538 + 43 + 101) - 29) days.

On August 5, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,007 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[2] As of the filing of the RCE on April 3, 2008, the application was pending three years and 353 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

[4] A restriction requirement was not mailed until December 5, 2006, fourteen months and 538 days after the application filing date of April 15, 2004. Additionally, a final Office action was not mailed until December 7, 2007, four months and 43 days after a response was filed on June 25, 2007.

overlapping PTO delay under §154(b)(1)(A) & (B) is 1,036 (682 + 354) days as these periods do not occur on the same day. Further, given the applicant delay of 29 days, patentees assert entitlement to 1,007 (1,036 - 29) days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

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

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

> 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).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 15, 2004, and ending on April 2, 2008, the day before the filing of the request for continued examination (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not

include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i). Thus, only the 581 days of patent term adjustment accorded prior to the filing of the request for continued examination, pursuant to 37 CFR 1.702(a)(1) and (a)(2) is considered in determining overlap. The 101 days for Office delay under 37 CFR 1.702(a)(2) occurring subsequent to the filing of the request for continued examination is not considered.

The 353 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 682 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(2). 682 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 653 days (682 (538 + 43 + 101) days of Office delay - 29 days of applicant delay).

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

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/826,125	04/16/2004	2874	878	2546	4	26	2

CONFIRMATION NO. 9861

CORRECTED FILING RECEIPT

OC000000013457204

28004
SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Date Mailed: 08/06/2004

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

Applicant(s)

Youichi Akasaka, Foster City, CA;

Assignment For Published Patent Application

Sprint Communications Company, L.P.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Optical amplification producing wider total gain bandwidth

Preliminary Class
385

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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MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Seltzer, et al.	:	
Application No. 10/826,139	:	DECISION ON PETITION
Filed: 15 April, 2004	:	
Attorney Docket No.: 50037.242US01	:	

This is a decision on the petition filed on 17 December, 2004 under 37 C.F.R. §1.47(a).

The petition is **DISMISSED**.

NOTES:

(1) Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 15 April, 2004, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts on 28 June, 2004;
- Petitioner Timothy P. Sullivan (Reg. No. 47,981) has filed, *inter alia*, a copy of an oath/declaration signed by name co-inventors Dirickson, Tokumi and Franco, but without the signature of non-signing inventor Ann Seltzer (Ms. Seltzer), has stated a "last known address" for her, and has made a statement that he has tried to reach Ms. Seltzer by telephone, without success; however, Petitioner has made no showing of a due diligence effort to locate a current address for the non-signing inventor, or of having mailed a copy of the entire application (description, claims, drawings) to the non-signing inventor in an effort to contact her and/or obtain a current forwarding address for her.

ANALYSIS

The commentary at MPEP §409.03(d) states:

* * *

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made <u>to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature</u>, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted

that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the

> circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

---

[1] See: MPEP 409.03(b).

CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 01-06

Paper No: __

MICROSOFT CORPORATION
C/O MERCHANT & GOULD, L.L.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Seltzer, et al.	:	
Application No. 10/826,139	:	DECISION ON PETITION
Filed: 15 April, 2004	:	
Attorney Docket No.: 50037.242US01	:	

This is a decision on the petition filed on 11 August, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

NOTE: **Contrary to the statement of Counsel in the 14 March, 2005, correspondence to the non-signing inventor Ann Seltzer, the inclusion of the copy of entire application (description, claims, abstract and drawings) was and is not for the "convenience" of the non-signing inventor, but, rather, is a requirement of law. (See: MPEP §409.03(d).) As one registered to practice before the Office, Counsel is aware that this requirement of law exists, *inter alia*, because by way of executing an oath/declaration an inventor makes legal claim to the invention and commits to diligence and candor in his/her communications with the Office–whether directly or through Counsel.**

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 15 April, 2004, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts on 28 June, 2004;

- on 17 December, 2004, Petitioner Timothy P. Sullivan (Reg. No. 47,981) filed, *inter alia*, a copy of an oath/declaration signed by name co-inventors Dirickson, Tokumi and Franco, but without the signature of non-signing inventor Ann Seltzer (Ms. Seltzer), stated a "last known address" for her, and made a statement that he tried to reach Ms. Seltzer by telephone, without success; however, Petitioner has made no showing of a due diligence effort to locate a current address for the non-signing inventor, or of having mailed a copy of the entire application (description, claims, drawings) to the non-signing inventor in an effort to contact her and/or obtain a current forwarding address for her, and for that reason the original petition was dismissed on 11 February, 2005;

- by way of the instant petition filed on 111 August, 2005, Petitioner seeks to cure and appears to have cured these deficiencies.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to the OIPE for further processing before being forwarded for substantive examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARY TOPE-MCKAY
23852 PACIFIC COAST HIGHWAY #311
MALIBU CA 90265

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Erik Brandon	:	
Application No. 10/826,140	:	DECISION GRANTING PETITION
Filed: April 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CIT003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and an executed declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of June 28, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

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

UNITED STATES 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 L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

In re Application of:
Spohn, Michael A., et al.
Serial No.: 10/826,149
Filed: Apr. 16, 2004
Docket: CV/04-002
Title: FLUID DELIVERY SYSTEM, FLUID PATH SET, STERILE CONNECTOR AND IMPROVED DRIP CHAMBER AND PRESSURE ISOLATION MECHANISM

DECISION ON PETITION

This is a decision on the petition filed on Jun. 14, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Aug. 2, 2006, and that non-elected claims 27-59 be rejoined and examined on the merits: Claims 60-75 were elected and examined. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the record reveals that a restriction requirement was issued on Aug. 2, 2006. On Aug. 10, 2006, the applicant elected Group VI (claims 60-75) with traverse. The examiner issued an action of the merits on Sep. 29, 2006 and repeated the restriction requirement. On Jun. 14, 2007, the current petition is filed requesting the non-elected claims 27-59 be rejoined because the examiner has not established that at least the inventions of Groups IV, V, and VI are independent and distinct as claimed.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions can be shown to be distinct if both of the following can be shown: that a combination as claimed in first group: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness) and (B) the subcombination as claimed in second group can be shown to have utility either by itself or in another materially different combination. See MPEP 806.05(c)[1].

[1] MPEP 806.05(c) [R-5] Criteria of Distinctness Between Combination and Subcombination: To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a *>serious< search burden >if restriction were not required< as evidenced by separate classification, status, or field of search. See MPEP §808.02. The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct.

In the instant application, the distinctness between the claimed inventions has not been established for the inventions of Groups IV, V and VI in the examiner's restriction requirement of Aug. 2, 2006 because the combination claim 60 does in fact include all limitations of subcombination claims 27 and 42. Therefore, the combination claim 60 does require the particulars of the subcombination claims 27 and 42 for patentability. Therefore, the claims as Grouped in IV, V and VI are not distinct from each other. Whether the subcombinations as claimed have separate utility becomes irrelevant since the examiner has not shown the combination as claimed does not require any particulars of subcombination for patentability. In the restriction requirement, the examiner simply has not satisfied the requirement set forth in MPEP § 806.05(c). It is noted that petitioner does not dispute the distinctness between the inventions as Grouped in I and II (claims 1-26) under the restriction requirement. Therefore, this decision will not address the propriety of the restriction requirement as to the inventions of Groups I and II (claims 1-26).

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement of Aug. 2, 2006 is hereby withdrawn as to Groups IV, V and VI. Claims 27-59 will be rejoined with the elected invention as claimed in claims 60-75. The examiner has been directed to issue an Office action to treat claims 27-59 on the merits after the RCE filed Jun. 14, 2007 is processed.

Conclusion

Based on the analysis of the record, the restriction requirement promulgated in the Office communication dated Aug. 2, 2006 is withdrawn as to Groups IV, V and VI inventions. Non-elected claims 27-59 and the previously elected claims 60-75 have been examined in the Office action mailed Nov. 28, 2007. The relief requested in the petition is granted.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS TX 75380

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OCT 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Jack C. WYBENGA, et al	:	
Application No. 10/826,158	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 2004.03.001.BN0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 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, February 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 2419 for appropriate action by the Examiner in the normal course of business on the reply received September 11, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

cc: JOHN T. MOCKLER
12270 COIT ROAD, SUITE 600
DALLAS, TX 75251

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURR & BROWN
PO BOX 7068
SYRACUSE NY 13261-7068

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Jiro Kanie	:	
Application No. 10/826,165	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 889_001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 20, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 21, 2006. A Notice of Abandonment was mailed on March 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, $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 July 20, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on April 20, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1618 for processing the request for continued examination and for

appropriate action in the normal course of business on the submission under 37 CFR 1.114 received April 20, 2007.

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

Frances Hicks

Frances Hicks
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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BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/26/2010

Applicant	: Donald F. Gordon	: DECISION ON REQUEST FOR
Patent Number	: 7634788	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/826,187	: 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 **1436** 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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 5/13/2008
Patent No.	: 7,228,809 B2
Inventor(s)	: Angelino et al.
Issue Date	: June 17, 2007
Title	: **UNDERGARMENTS HAVING FINISHED EDGES AND METHODS THEREFOR**
Doc./File No.	: **CUPID 3.0-003**

Re: Certificate of Correction

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

Respecting the alleged error(s) in your request, in column 16, line 34, comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy. Therefore, no correction is in order here.

In view of the foregoing, your request in the above matter is denied.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

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

ecw

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www.uspto.gov

GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

MAIL

APR 18 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
SANTOS, SHEILA MARIE
Serial No.: **10/826,201**
Filed: **April 16, 2004**
For: **SHAPE MORPHING CONTROL AND MANIPULATION**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed March 7, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 2, 5E, 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H, 4I, 4J, 4K, 5A, 5B, 5C, 5D, 6A, 6B, 6C, and 6D be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

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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10121 MILLER AVE # 201
CUPERTINO, CA 95014

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:	
YANG, et al.	:	
Application No. 10/826,215	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. **RZMI-P306**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 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 "assignee Raza Microelectronics wishes to terminate representation" does not meet any of the conditions set forth in 37 CFR 10.40.

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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RAZA MICROELECTRONICS, INC.**
LEGAL DEPARTMENT
18920 FORGE DRIVE
CUPERTINO, CA 95014-0701

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ZILKA-KOTAB, PC- RMI
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 04/21/2010

Applicant	: Brian Hang Yang	: DECISION ON REQUEST FOR
Patent Number	: 7613201	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/826,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1539** 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.

OIPE JC103
JAN 2 6 2005
PATENT & TRADEMARK OFFICE

In the United States Patent and Trademark Office

FILE COPY

Application No.: 10/826,216
Filing Date: 4/16/2004
Inventors: Leonid Rappoport, Aleksander Yam and Alex Vainer
Title: POLY ((POLYTHIOALKYL)ESTERS), THEIR APPLICATIONS AND DERIVATIVES

Petition to Make Special under C.F.R. 1.102(c): Applicant(s) Are Over 65 years in Age

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

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

Sir,

The applicant hereby petitions under the provisions of 37 CFR 1.102(c) to make special the U.S. Patent Application identified above. As established by the attached declaration, one of the inventors is over 65 years in age. Accordingly, please grant this petition and advance for examination the present patent application.

Respectfully submitted,

Katharina Schuster

Katharina Wang Schuster
Reg. No. 50,000
Tel.: 650-424-0100

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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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OPPEDAHL & LARSON LLP -VAI
P.O. BOX 5068
DILLON, CO 80435-5068

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Paul Waterhouse et al :
Application No. 10/826,222 : ON PETITION
Filed: April 17, 2004 :
Attorney Docket No. VAI.P029 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 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 August 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.

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

cc: M. JASON AUGUST
2330 SOUTHFIELD ROAD
MISSISSAUGA, ONTARIO,
LN5 2WB CANADA

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Commissioner for Patents
United States Patent and Trademark Office
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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE
SUITE 500
SPOKANE, WA 99201

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DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of:
Hogdal, et al.
Application Serial No.: 10/826,228
Filed: April 16, 2004
For: **SYSTEMS AND METHODS FOR REPLICATING VIRTUAL MEMORY ON A HOST COMPUTER AND DEBUGGING USING REPLICATED MEMORY**

DECISION ON
PETITION *under 37 CFR 1.102*

This is a decision on the petition, filed on November 7, 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 09/865,934 filed May 24, 2001, which claims priority from provisional application 60/234,643 filed September 22, 2000.

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, as per M.P.E.P. § 708.01(I) and § 707.02.

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

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JOHN W. SLIWA
24871 OLIVE TREE LANE
LOS ALTOS HILLS CA 94024

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Carol A. Tosaya, et al.	:	
Application No. 10/826,232	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No.: D-03020A	:	

This is a decision in response to the petition, filed March 8, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is DISMISSED because it is not properly signed in accordance with 37 CFR 1.33(b). The petition, as executed, appears to be filed by one of the two joint inventors.

37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) **All of the applicants** (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73." Emphasis added.

Since the petition is not signed by an attorney or agent registered to practice before the Patent and Trademark Office; all the applicants for patent; or the assignee or other party in interest as established by 37 CFR 3.73(b), it cannot be accepted.

At present, no consideration on the merits of the petition has been given.

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

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Alexandria, VA 22313-1450
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JOHN W. SLIWA
24871 OLIVE TREE LANE
LOS ALTOS HILLS, CA 94024

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JUL 01 2010

OFFICE OF PETITIONS

In re Application of :
Carol A. Tosaya, et al. :
Application No. 10/826,232 :
Filed: April 16, 2004 :
Attorney Docket No.: D-03020A :

ON PETITION

This is a decision in response to the renewed petition, filed May 21, 2010, 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**.

The application was held abandoned for a failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 24, 2009, which set a shortened statutory period for reply of three (3) months. Therefore, a reply was due on or before October 24, 2009; however, the maximum extendable period for reply ended on January 24, 2010.

Petitioner requests that the abandonment be withdrawn since a response was timely filed on November 23, 2009. Petitioner explains that an incorrect application number was inadvertently entered on one of the documents. Consequently, the entire response was not associated with the correct application. Petitioner has provided a postcard receipt dated November 23, 2009 and a copy of the response, including an appropriate 1-month petition for extension of time.

It is noted that the response confirms an incorrect application number was cited on the RCE request. Nevertheless, 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 it 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 all of the papers with the correct application.

The response filed November 23, 2009, will be removed from the incorrect Image File Wrapper (IFW) and uploaded to the correct application, where intended.

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

This application is being referred to Technology Center AU 3767 for appropriate action in the normal course of business on the reply received November 23, 2009.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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NOV 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Moriguchi et al. :
Application No. 10/826,233 : DECISION DISMISSING PETITION
Filed: May 7, 2004 :
Attorney Docket No. 112857-500 :

This is a decision on the petition filed October 21, 2004, which is being treated as a petition requesting that the above-identified application be accorded the original filing date of April 16, 2004, with 75 pages of specification as part of the original disclosure.

On April 16, 2004, applicants deposited the above-identified application. However, the date-stamped postcard receipt contained a notation by a USPTO employee indicating nonreceipt of the 75 page specification. In response, on May 7, 2004, applicants submitted a "Response to Return Receipt Postcard Notation" with a duplicate copy of the specification. Thereafter, the Office of Initial Patent Examination accorded the application a filing date of May 7, 2004, the date of receipt of the pages of specification.

On August 18, 2004, the Office of Initial Patent Examination mailed applicants a Notice of Omitted Item(s) in a Nonprovisional Application, indicating that the application had been accorded a filing date of May 7, 2004, and advising applicants that pages 68, 69, and 71 of the specification appeared to have been omitted.

In response, on October 18, 2004, applicants submitted the present petition and the petition fee. Applicants state that the present application is a continuation application of Application No. 09/292,834, which issued a U.S. Patent No. 6,764,767 on July 20, 2004. Applicants further state that the entire disclosure of the prior application was incorporated by reference.

It is noted that the application transmittal letter identified this application as a continuation application of prior application No. 09/292,834, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

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

Unfortunately, the present petition must be dismissed because applicants failed to submit pages 68, 69 and 71 of the specification with the present petition. The application cannot be accorded the earlier filing date of April 16, 2004, with the entire specification as part of the original disclosure without pages 68, 69, and 71.

Therefore, the petition is dismissed without prejudice. Any renewed petition under 37 CFR 1.182 must be filed within TWO MONTHS of the date of this decision and be accompanied by a copy of pages 68, 69 and 71 of the specification. This period is not extendable. See 37 CFR 1.181(f).

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Chicago IL 60690-1135

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DEC 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Moriguchi et al.	:	
Application No. 10/826,233	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 112857-500	:	

This is a decision on the renewed petition filed December 16, 2004, requesting that the above-identified application be accorded the original filing date of April 16, 2004, with 75 pages of specification as part of the original disclosure.

On April 16, 2004, applicants deposited the above-identified application. However, the date-stamped postcard receipt contained a notation by a USPTO employee indicating nonreceipt of the 75 page specification. In response, on May 7, 2004, applicants submitted a "Response to Return Receipt Postcard Notation" with a duplicate copy of the specification. Thereafter, the Office of Initial Patent Examination accorded the application a filing date of May 7, 2004, the date of receipt of the pages of specification.

On August 18, 2004, the Office of Initial Patent Examination mailed applicants a Notice of Omitted Item(s) in a Nonprovisional Application, indicating that the application had been accorded a filing date of May 7, 2004, and advising applicants that pages 68, 69, and 71 of the specification appeared to have been omitted.

In response, on October 18, 2004, applicants submitted the original petition and the petition fee. Applicants stated that the present application is a continuation application of Application No. 09/292,834, which issued a U.S. Patent No. 6,764,767 on July 20, 2004. Applicants further stated that the entire disclosure of the prior application was incorporated by reference.

It is noted that the application transmittal letter identified this application as a continuation application of prior application No. 09/292,834, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

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

Unfortunately, the original petition was dismissed by the decision of November 15, 2004, because applicants failed to submit pages 68, 69 and 71 of the specification with the original petition.

On December 16, 2004, applicants filed the present renewed petition accompanied by a copy of pages 68, 69 and 71 of the specification. Applicants again request that the Office accord the application a filing date of April 16, 2004, with 75 pages of specification, including pages 68, 69 and 71.

In view of above, the petition is **granted.**

A second petition fee is not necessary. Accordingly, the $400.00 fee will be refunded to Deposit Account No. 02-1818.

The Office of Initial Patent Examination is directed to accord the application a filing date of April 16, 2004, using the pages 1-67 and 70 submitted on May 7, 2004, and pages 68, 69 and 71 submitted with the petition filed on December 16, 2004. The Office is also directed to mail a corrected filing receipt.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of
BURNETT, Daniel R.
Application No. 10/826,237
Filed: April 17, 2004
Attorney Docket No. **35744-01110**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2007.

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

A review of the file record indicates that the power of attorney to LEVINE BAGADE HAN LLP has been revoked by the applicant of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LUCE FORWARD HAMILTON & SCRIPPS LLP**
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

In re Application of

LUKACSKO, Alison B.
Application No. 10/826,238
Filed: April 16, 2004
Attorney Docket No. **LUK1.PAU.01**

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 20, 2008 and resubmitted April 03, 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 Joseph C. Andras on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 01, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALISON B. LUKACSKO**
11 BROOKFIELD WAY
WEST WINDSOR, NJ 08550

cc: **STEFAN KIRCHANSKI**
VENABLE LLP
2049 CENTURY PARK EAST
21ST FLOOR
LOS ANGELES, CA 90067

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P.O. Box 1450
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Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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AUG 19 2008

In re Application of	:	
Calvin H. Vu	:	
Application No. 10/826,243	:	DECISION ON PETITION
Filed: April 15, 2004	:	TO WITHDRAW
Attorney Docket No. 1322.004	:	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 21, 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 John W. Branch on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Calvin H. Vu**
1643 Valley Crest Drive
San Jose, CA 95131

cc: **Osha Liang L.L.P./SUN**
1221 McKinney, Suite 2800
Houston, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/826,243	04/15/2004	Calvin H. Vu	20910/0206109-US0

CONFIRMATION NO. 9629

POWER OF ATTORNEY NOTICE

OC000000031639255

62663
Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

Date Mailed: 08/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2008.

- 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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LEE, HONG, DEGERMAN, KANG & SCHMADEKA
801 SOUTH FIQUEROA STREET
14TH FLOOR
LOS ANGELES, CA 90017

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Luc Phu Tran et al	:	
Application No. 10/826,247	:	DECISION GRANTING PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2060-3-78	:	

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 June 28, 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 August 29, 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

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United States Patent and Trademark Office
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JAN 0 8 2010

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

In re Application of	:	
Kazuhiro FUJII	:	DECISION ON PETITION
Application No. 10/826,272	:	UNDER 37 CFR §1.181
Filed: June 15, 2001	:	
For: ELECTRICAL BICYCLE SHIFT	:	
CONTROL DEVICE	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed January 15, 2008 to request the withdrawal of the objection to the amendment filed on August 2, 2007 for allegedly introducing new matter in the disclosure, as set forth in the November 15, 2007 final Office action.

The petition is **GRANTED.**

A review of the record reflects that on August 2, 2007, applicant filed an amendment in response to a non-final Office action dated April 18, 2007.

In the August 2, 2007 amendment, applicant amended the drawings, the specification and claims 1, 2, 6, 11, 12, 14, 15, 17-19, 22, 26 and 28. More specifically, the applicant amended the drawings and specification to illustrate a plane P and provide reference numerals for split S for features set forth in amended claim 22, and to provide proper antecedent basis for the new claim language added in amended claim 22.

On November 15, 2007, the examiner issued a final Office action in response to the August 2, 2007 amendment. In this final Office action, the examiner indicated that the applicants' August 2, 2007 amendment introduced new matter into the disclosure (drawings and specification), since the plane P was not disclosed in the application as originally filed, and since the concept that plane P being perpendicular to the operating axis X and passing through the center axis C of the transverse portion T of the handlebar 14 as shown in the amended figure 7, was not conveyed in the disclosure as originally filed.

Applicant asserts that plane P, which is perpendicular to the rotation axis X and passes through the center axis C to figure 7, does not constitute an introduction of new matter since such a plane was inherently present in original figure 7, but was merely not yet explicitly identified. The applicant argues that a plane that is perpendicular to the rotation axis X and passes through the center axis C is inherently present in original figure 7, and thus, is merely being clearly, explicitly identified as plane "P" by the August 2, 2007 amendment, and that the changes to figure 7 and the specification were made in view of the changes to claim 22 and in view of an objection in the April 18, 2007 Office action that "a mating mounting structure" set forth in the claims was not identified with a reference numeral.

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings is usually new matter. In the instant application, amending figure 7 and the specification to show a plane P perpendicular to the operating axis X and passing through the center axis C, in relation to structure that was originally filed, do not constitute new matter since plane P inherently existed prior to amending the drawings, and was therefore disclosed at the time of filing. Therefore, the holding of new matter made in the November 15, 2007 final Office action is hereby withdrawn.

Summary: The petition is **GRANTED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

Frederick Schmidt, Director
Patent Technology Center 3600
571-272-5150

rr/lm: 1/6/10

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong-Hoon Lee et al.	:	DECISION ON PETITION
Application No. 10/826,274	:	PURSUANT TO
Filed: April 19, 2004	:	37 C.F.R. § 1.182
Attorney Docket No. 0630-1976P	:	
Title: METHOD OF FABRICATING COLOR	:	
FILTER PANEL USING BACK EXPOSURE	:	
AND STRUCTURE OF COLOR FILTER PANEL	:	

This is in response to the petition filed on February 14, 2008, pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

The petition is **DISMISSED**.

On May 9, 2009, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over U.S. Patent Number 7,123,333, in a non-final Office action mailed February 9, 2007.

With this petition, Petitioner has requested the withdrawal of this terminal disclaimer, however **the petition does not appear to contain an explanation of why it would be proper for the Office to withdraw this terminal disclaimer.**

It does not appear that Petitioner has established, or even asserted, that it would be proper for the Office to withdraw this terminal disclaimer.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: BIRCH STEWART KOLASCH & BIRCH
8110 GATEHOUSE ROAD
SUITE 100 EAST
PO BOX 747
FALLS CHURCH VA 22040-0747

---

written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

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MAY 13 2008

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Dong-Hoon Lee et al.	:	DECISION ON RENEWED
Application No. 10/826,274	:	PETITION PURSUANT TO
Filed: April 19, 2004	:	37 C.F.R. § 1.182
Attorney Docket No. 0630-1976P	:	
Title: METHOD OF FABRICATING COLOR	:	
FILTER PANEL USING BACK EXPOSURE	:	
AND STRUCTURE OF COLOR FILTER PANEL	:	

This is in response to the renewed petition filed on April 18, 2008, pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

This renewed petition is **DISMISSED**.

On May 9, 2009, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over U.S. Patent Number 7,123,333, in a non-final Office action mailed February 9, 2007.

An original petition pursuant to 37 C.F.R. § 1.182 was filed on February 14, 2008, and was dismissed via the mailing of a decision on March 31, 2008 for failure to contain an explanation of why it would be proper for the Office to withdraw this terminal disclaimer.

With this renewed petition, Petitioner has submitted arguments pertaining to the propriety of the withdrawal this terminal disclaimer.

These arguments have been considered by the Examiner, but have not been deemed to be persuasive. An Office communication from the Examiner has been enclosed with this decision.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

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

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Office communication

cc: BIRCH STEWART KOLASCH & BIRCH
8110 GATEHOUSE ROAD
SUITE 100 EAST
PO BOX 747
FALLS CHURCH VA 22040-0747

---

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 05/21/2010

Applicant	: Joon-hyun Yang	: DECISION ON REQUEST FOR
Patent Number	: 7629949	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/826,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerard Lang et al	:	
Application No. 10/826,333	:	DECISION GRANTING PETITION
Filed: April 19, 2004	:	UNDER 37 CFR 1.314
Attorney Docket No. 05725.0631-01	:	

This is a decision on the petition under 37 CFR 1.314, filed September 27, 2005, to defer issuance of the instant application into a patent.

The petition is granted.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, since the deferral period has now passed, the application will be returned to Publishing Division for processing into a patent.[1]

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] The SPRE and examiner have been messaged in IFW to consider the IDS filed September 27, 2005. This matter is now within the jurisdiction of the Technology Center and questions regarding the IDS should be directed to the Technology Center.

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Jeyhan Karaoguz	: DECISION ON REQUEST FOR
Patent Number	: 7639308	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/826,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **867** 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 3746

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No. 10/826353 (6907738)

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**.

Should Inventorship be entered?

E M James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance Brantis A/S/A/P

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] 3746
SPE Art Unit

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Eitan Law Group
C/O LandonIP, Inc.
1700 Diagonal Road
Suite 450
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of :
Atir, et al. :
Application No. 10/826,375 : ON PETITION
Filed: April 19, 2004 :
Attorney Docket No. P-6343-US :
For: METHOD FOR MEMORY ARRAY READ

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

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed October 17, 2005, which set an extendable one (1) month or thirty (30) day period (whichever is longer) for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on November 18, 2005. A Notice of Abandonment was mailed on July 25, 2006.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the authorization to charge the petition fee to petitioners' deposit account. Deposit account no. 50-3400 has been charged the $1,500.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the file will be returned to Technology Center AU 2824 for consideration of the election filed on June 5, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: EMPK & SHILOH, LLP
116 JOHN ST, SUITE 1201
NEW YORK, NY 10038

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Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

In re Application of	:	
Takewawa	:	
Application No. 10/826,377	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO WITHDRAW
Attorney Docket No. 01203.075	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDEROTH, LIND AND PONACK L.L.P.
2033 K STREET, N.W., SUITE 800
WASHINGTON, DC 20006-1021

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MAY 03 2005

OFFICE OF PETITIONS

In re Application of
David Bell et al.
Application No. 10/826,401
Filed: April 19, 2004
Attorney Docket No. 2004_0623

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

This is in response to the petition filed April 1, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April19, 2004, naming David Bell and Neil Dutton as joint inventors but without a signed declaration. Accordingly, on September 3, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on oath or declaration executed only by joint inventor Neill Dutton, a petition under 37 CFR 1.47(a) and a request for a five month extension of time was filed. The petition argues that joint inventor Bell refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Bell and that he has expressly, in writing, refused to sign the oath or declaration or to cooperate with the filing of the instant application. 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.

As well, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 23-0975 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID BELL
BRITTON GELPLAS
UNIT 5 PROTEA WAY
PIXMORE AVENUE
LETCHWORTH GARDEN CITY
HERTS SG6 1JT
UNITED KINGDOM

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MAY 03 2005

OFFICE OF PETITIONS

In re Application of
David Bell et al.
Application No. 10/826,401
Filed: April 19, 2004
For: FILMS AND COMPOSITIONS

Dear Mr. Bell:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
WENDEROTH, LIND AND PONACK L.L.P.
2033 K STREET, N.W., SUITE 800
WASHINGTON, DC 20006-1021

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

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
THEYTAZ, et al.	:	
Application No. 10/826,424	:	DECISION ON PETITION
Filed: April 15, 2004	:	TO WITHDRAW
Attorney Docket No. **19414-08802**	:	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 3, 2007.

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

A review of the file record indicates that the power of attorney to FENWICK & WEST LLP has been revoked by the assignee of the patent application on January 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THE LAW OFFICE OF DEEPTI PANCHAWAGH - JAIN**
C/O INTELLEVALE
PO BOX 52050
MINNEAPOLIS MN 55402

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CROCKETT & CROCKETT
SUITE 400
24012 CALLE DE LA PLATA
LAGUNA HILLS CA 92653

In re Patent No. 6,987,489 :
Issue Date: January 17, 2006 :
Application No. 10/826,442 : NOTICE
Filed: April 15, 2004 :
Attorney Docket No. 212/470 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of

Cuyler D. Jones et al.
Application No. 10/826,443
Filed: April 16, 2004
Attorney Docket No. 5072-35

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 17, 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 Todd P. Blakely on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed June 28, 2007 that requires a reply from the applicant.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Cuyler D. Jones**
6219 S. Lee Street
Littleton, CO 80127

cc: **Scott Roswell, Esq.**
Centrix Financial, LLC
6782 South Potomac Street
Centennial, CO 80112

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/826,443	04/16/2004	Cuyler D. Jones	5072-35

CONFIRMATION NO. 1053

OC000000025125432

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- 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.

Jessi Williams

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

FORMER ATTORNEY/AGENT COPY

In the United States Patent and Trademark Office

Serial Number: 10/826462
Application Filed: 4-16-04
Applicant(s): Robert D. Montgomery
Application title: "Multipurpose, self-contained, portable, and odor-free workstation"
Examiner: 1724 - Pham

Mailed : 4 - 16 2004 At: Reno, Nevada

PETITION TO MAKE SPECIAL

Assistant Commissioner for Patents
Washington, District of Columbia 20231
Sir:
Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason:

I. ☐ Manufacturer Available;* VI. ☐ Energy Savings Will Result;
II. ☐ Infringement Exists;* VII. ☐ Recombinant DNA is Involved;*
III. ☐ Applicants Health is Poor VIII. ☐ Special Procedure: Search Was Made;*
IV. X **Applicant's Age is 65 or Greater;**
IX. ☐ Superconductivity is Advanced;
☐ Environmental Quality Will be Enhanced
☐
☐ X. ☐ Relates to Aids/Hiv or Cancer*

☐ Also attached, since reason I, II, VII, VIII or X has been checked, is the $ N/A Petition Fee pursuant to Rules 101 and 17(l).

Very Respectfully,

Applicant(s) Robert D. Montgomery Birthdate: 05/04/1936

Attachment(s): Fee if indicated and supporting Declaration
c/o
Telephone 1-775-746-3440

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JAN 30 2006

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

MAIL

JUL 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: TAKAO MASHIMA et al.
Application No. 10/826,470
Filed: April 16, 2004
For: INFORMATION PROCESSING SYSTEM AND INFORMATION PROCESSING METHOD

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

This is a decision on the petition filed May 03, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

7/15/05

RP

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of HOSOYA et al
Application No.: 10/826,471
Filing Date: April 16, 2004
For: DISK CONTROLLER

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

This is a decision on the petition filed March 29, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed March 29, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

Applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that references (1)-(7) cited in the petition will be considered by the assigned examiner.

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

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

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George B. F. Yee
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111-3834

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MAY 24 2007
Technology Center 2100

In re Application of:
Kenichi KIHARA et al.
Application No. 10/826,476
Filed: April 16, 2004
For: CONTROL SYSTEM AND METHOD FOR MANAGEMENT ITEMS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 28 March 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 submissions of 28 March 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, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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)
6990181	2006-01-24	10826485	2004-04-16	DAA-01F

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-07-15
Name	Kendal M. Sheets	Registration Number	47077

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 Patent and Trademark Office
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In re Patent No. 6990181
Issue Date: January 24,2006
Application No. 10826485
Filed: April 16,2004
Attorney Docket No. DAA-01F

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 15,2010 ,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 July 15,2010 .
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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DIW Aug-05

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
P.O. BOX 1343
PISCATAWAY NJ 08855-1343

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OFFICE OF PETITIONS

In re Application of	:	
Heibel et al.	:	
Application No. 10/826,490	:	DECISION ON PETITION
Filed: 15 April, 2004	:	
Atty Docket No. 7564-00	:	

This is a decision in reference to the petition filed on 4 August, 2005, which is treated as a petition under 37 CFR 1.53(c) requesting that the above-identified application be accorded a filing date of 15 April, 2004.

The petition is **DISMISSED AS MOOT**.

A review of Office PALM records indicates that the filing date currently accorded this application is 15 April, 2004. Therefore the present petition is unnecessary. The petition fee paid will be credited to counsel's deposit account, No. 03-2455.

A corrected Filing Receipt is enclosed for petitioners' records.

The application is referred to Technology Center Art Unit 1751 for examination in due course.

Telephone inquires should be directed to the undersigned at 571 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 2 6 2004

DCM

In re Application of Howard A. Fromson, et al. Serial Number: 10/826,535 Filed: April 16, 2004 For: QUIESCENT DEVELOPMENT OF LITHOGRAPHIC PLATES	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed April 16, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

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OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of	:	
MARSHALL, Charles	:	
Application No. 10/826,554	:	DECISION ON PETITION
Filed: April 15, 2004	:	TO WITHDRAW
Attorney Docket No. **MRSHP002**	:	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 20, 2008.

The request is **APPROVED**.

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

The request was signed by Dominic M. Kotab on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed December 21, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHARLES MARSHALL**
221 NORTH MYERS STREET, #A
BURBANK, CA 91506

cc: **MARSHALL MEDIA, INC.**
655 NORTH CENTRAL AVENUE, 17TH FLOOR
GLENDALE, CA 91203

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SAN JOSE CA 95172-1120

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OFFICE OF PETITIONS

In re Application of

MARSHALL, Charles
Application No. 10/826,557
Filed: April 15, 2004
Attorney Docket No. **MRSHP0014**

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 10, 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 Dominic Katob on behalf of all attorneys of record who are associated with customer No. 28875. All attorneys/agents associated with the Customer Number 28875 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 Charles Marshall at the address indicated below.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **CHARLES MARSHALL**
MARSHALL MEDIA, INC.
655 NORTH CENTRAL AVE. 17th FLOOR
GLENDALE, CA 91203

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FEB 24 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Ryszard M. Lec, et al.	:	
Application No. 10/826,567	:	RESPONSE TO PETITION
Filed: April 16, 2004	:	
Attorney Docket No. DXU-0007/02-0486D	:	

This is a response to the petition under 37 CFR 1.59(b), filed September 29, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

In the instant petition, petitioner seeks to have expunged from the file record of the instant application, a list of documents identified in the instant petition by letters "a" through "f", that were "unintentionally" submitted electronically on September 25, 2009. Petitioner further states, "The above-identified unintentionally submitted information was intended to be filed in Application Number 11/418,598 and was, in fact, filed in that application on the same day." The incorrect application number included in the transmittal of these documents via Office's Electronic Filing System (EFS), as evident from the electronic acknowledgement receipt associated therewith, apparently caused the documents to be placed in the file record of the instant application.

As set forth in MPEP § 724.05, paragraph III, the granting of a petition to expunge information submitted in an incorrect application will be governed by "the factors enumerated in paragraph II of this section in regard to the unintentional submission of information". The instant petition satisfies the relevant factors from those listed in MPEP § 724.05, paragraph II.

In view of the above, the petition to expunge has been **GRANTED**.

Although the petition has been granted, and the documents that were requested to be removed have been expunged from the instant application, petitioner is reminded of the duty to disclose to the Office all information known to the petitioner to be material to patentability in the instant application, as set forth in 37 CFR 1.56. As of mailing date of this decision, the corresponding images of the expunged documents in IFW have been "closed" thereby removing them from a list of publicly available documents associated with this application.

Telephone inquiries concerning this communication should be directed to Ramesh Krishnamurthy at (571) 272 - 4914.

David Bucci
Petitions Examiner
Office of Petitions

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY
DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Glanzer et al.	:	
Application No. 10/826,576	:	DECISION
Filed: April 16, 2004	:	ON PETITION
Atty Docket No. 33203/US/2	:	
	:	

This is a decision on the "PETITION TO CORRECT PRIORITY CLAIM UNDER 37 C.F.R. §§ 1.78(a)(1-3) and 1.17(t)," filed April 28, 2005, to accept an unintentionally delayed claims under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional Application nos. 10/453,596, 10/160,094, and 08/916,178.

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(s), unless previously submitted;

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

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

The instant nonprovisional application was filed on April 16, 2004, and was pending at the time of the filing of the instant petition. On petition, references to the prior-filed nonprovisional applications have been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). This amendment[1] was filed with the petition on April 28, 2005. The petition includes payment of the surcharge under § 1.17(t). Petitioner states that "delay in claiming priority under 37 CFR § 1.78(a)(5)(ii) was entirely unintentional." Despite its reference to (a)(5) rather than (a)(2) of 1.78, this statement is being construed as the required statement of unintentional delay. Petitioner must advise the Office if this interpretation is incorrect.

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). Also, the references to the prior-filed applications were submitted during the pendency of the instant nonprovisional application. 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.

---

[1] This amendment is acceptable despite the inclusion of an incorporation by reference statement, because the application as filed included a statement incorporating by reference prior application Nos. 10/453,596, 10/160,094 (now Patent No. 6,594,530) and 08/916,178 (now Patent No. 6,424,872) on page 2 of the specification.

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 these benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 2121 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120, and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed applications.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Apr-07

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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APR 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Zou et al.	:	
Application No. 10/826,579	:	DECISION ON PETITION
Filed: 04/16/2004	:	
Attorney Docket No. 010093U1C1	:	

This is a decision on the petition filed on 31 January, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 December, 2005, for failure to timely response to the non-final Office action mailed on 15 September, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 June, 2006.

Receipt of the amendment filed with the present petition is acknowledged.

---

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

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

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

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

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

This application is being referred to Technology Center 2142 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Zou et al.	:	
Application Number: 10/826579	:	DECISION ON PETITION
Filing Date: 04/16/2004	:	
Attorney Docket Number:	:	
010093U1C1	:	

This is a decision on the petition filed on 29 August, 2007, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 15 September, 2005, a non-final Office action was mailed. On 23 June, 2006, a Notice of Abandonment was mailed for failure to file a reply to the non-final Office action. On 31 January, 2007, a petition under 37 CFR 1.137(b) was filed, accompanied by an amendment. On 23 April, 2007, a Decision on Petition granting the petition under 37 CFR 1.137(b) was mailed. On 20 July, 2007, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed, setting a one (1) month shortened time period. On 29 August, 2007, the present petition was filed, along with a one (1) month extension of time and a corrected amendment.

As extensions of time were available in response to the Notice mailed on 20 July, 2007, and a one month extension of time was obtained, the response filed on 29 August, 2007, was a proper and timely response to the Notice mailed on 20 July, 2007.

As such, the application was not abandoned, and no petition to revive is necessary.

The petition fee has not been charged.

The application will be referred to Technology Center Art Unit 2142 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BENEDICT O'MAHONEY
1800 EMBARCADERO ROAD
PALO ALTO, CA 94303

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SEP 19 2008

In re Application of	:	
Balzer et al.	:	
Application No. 10/826,584	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 2004-001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 22, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to respond to the non-Final Office action mailed September 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 2007. A Notice of Abandonment was mailed March 31, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (3). The statement required in item (3) has not been signed by all of the applicants for patent, an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71, or a patent attorney or patent agent registered to practice before 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. For a power of attorney to be valid, the attorney or agent appointed must be registered to practice before the U.S. Patent and Trademark Office in accordance with 37 CFR 11.6. It appears the person signing the petition is neither registered to practice before the U.S. Patent and Trademark Office in patent matters nor named as an inventor in the application, contrary to the Code of Federal Regulations,

37 CFR 1.31 and 1.32. 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.

The change of correspondence address filed May 21, 2008 cannot be accepted because it was not signed by a registered attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Benedict O'Mahoney
Teknowledge Corporation
2595 East Bayshore Road, Suite 250
Palo Alto, CA 94303

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Robert J. Schaap
21241 Ventura Boulevard
Suite 188
Woodland Hills, CA 91364

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
David L. Gothard	:	
Application No. 10/826,586	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 03-5296	:	

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

The application became abandoned for failure to respond to the non-final Office action mailed July 19, 2006. A Notice of Abandonment was mailed on January 29, 2007.

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

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

This application file is being referred to Technology Center Art Unit 2871, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/826,586	04/16/2004	David L. Gothard	03-5296

CONFIRMATION NO. 1757

POA ACCEPTANCE LETTER

Robert J. Schaap
21241 Ventura Boulevard
Suite 188
Woodland Hills, CA 91364

OC000000029111541

Date Mailed: 03/27/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

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

/amsmith/

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

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GOODMAN, ALLEN & FILETTI PLLC
4501 HIGHWOODS PARKWAY
SUITE 210
GLEN ALLEN VA 23060

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JUL 21 2010

OFFICE OF PETITIONS

In re Application of	:	
David Gothard	:	DECISION ON PETITION
Application No. 10/826,586	:	TO WITHDRAW
Filed: April 16, 2004	:	FROM RECORD
Attorney Docket No. 0004.000008US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 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 Matthew T. Kitces on behalf of all attorneys of record who are associated with Customer No. 33422.

All attorneys/agents associated with Customer Number 33422 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Currently, there is an outstanding Office action mailed February 23, 2010 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David Gothard
5400 Yahl Street Suite D
Naples, Florida 34109

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI LLP
20333 Tomball Parkway
SUITE 600
HOUSTON TX 77070

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JUL 01 2010

OFFICE OF PETITIONS

In re Patent of Zimmer	:	DECISION ON REQUEST
Patent No. 7,636,489	:	FOR RECONSIDERATION OF
Issue Date: December 22, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/826,596	:	AND NOTICE OF INTENT TO
Filing Date: April 16, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 119-0035US	:	CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand six hundred fifty (1650) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand six hundred fifty (1650) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 37 C.F.R. § 1.136.

Applicant asserts the period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 669 days. However, applicant fails to include the 32-day time period from April 16, 2007 to May 18, 2007, as part of the period for A Delay. The total period of A Delay is 746 days based on the preceding discussion.

Applicant asserts the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 981 days. Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include any time period consumed by appellate review. Therefore, B Delay does not include the 360 days consumed by appellate review as a result of the Notice of Appeal filed August 12, 2008. B Delay is 621 days after removal of the time period consumed by appellate review.

With respect to the period of adjustment for the Office taking in excess of three years to issue the patent, 35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under A Delay and B Delay to the extent such periods of delay are not overlapping. The office has determined the period of overlapping delay is 45 days.

In view of the prior discussion, the patent term is 1322 days, which is the sum of 746 days of A Delay and 621 days of B Delay reduced by 45 days of overlapping delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand three hundred twenty-two (1322)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,636,489 B2
APPLICATION NO.	:	10/826,596
DATED	:	December 22, 2009
INVENTOR(S)	:	Mark Zimmer

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 981 days.

Delete the phrase "by 981 days" and insert -- by 1322 days--

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/24/04

Natalie Swider
Slater & Matsil, L.L.P
17950 Preston Rd, Suite 1000
Callas, TX 75252

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/826601 received on 05/10/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

OIPE JC46
JUN 0 3 2004
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Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/24/04

Natalie Swider
Slater & Matsil, L.L.P
17950 Preston Rd, Suite 1000
Callas, TX 75252

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/826601 received on 05/10/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,624	04/16/2004	Stephen K. Pinto	17146-0006001	1303

26161 7590 12/21/2009
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
2129	

NOTIFICATION DATE	DELIVERY MODE
12/21/2009	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):

PATDOCTC@fr.com

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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Fish & Richardson PC
P.O. BOX 1022
Minneapolis MN 55440-1022

In re Patent No. 7499897
Issue Date : March 3, 2009
Application No. : 10/826,624
Filed: April 16, 2004
For: PREDICTIVE MODEL VARIABLE MANAGEMENT

DECISION ON PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 C.F.R. 1.324

This is a decision on the petition filed July 7, 2009 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/David Vincent/ SPE 2129

David Vincent

Supervisory Patent Examiner,

Art Unit 2129,

Technology Center 2100

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

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APR 1 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Grove et al.	:	
Application No. 10/826,637	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 25319A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 25, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 26, 2004. A Notice of Abandonment was mailed on March 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner's deposit account will be charged the $1500.00 petition fee and the $130.00 late oath or declaration fee as authorized.

This matter is being referred to the Office of Initial Patent Examination for further processing.

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

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

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United States Patent and Trademark Office
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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Grove et al.	:	
Application No. 10/826,637	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 25319A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	
Thomas A. Holmberg	
Application No. 10/826,666	DECISION ON PETITION
Filed: April 16, 2004	TO WITHDRAW
Attorney Docket No. 11919.001US1	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 19, 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 Peter C. Maki on behalf of all attorneys of record who are associated with customer No. 21186.

All attorneys/agents associated with the Customer Number 21186 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 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). The power of attorney filed on January 18, 2007 does not include one of the above two options.

There is an outstanding Office action mailed November 27, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS A. HOLMBERG
4155 BERKSHIRE LANE N.
MINNEAPOLIS, MN 55446-3814

cc: GARY L. QUICK
FISH & RICHARDSON, P.C., PA
3300 DAIN RAUSCHER PLAZA
60 SOUTH 6TH STREET
MINNEAPOLIS, MN 55402

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/826,666	04/16/2004	Thomas A. Holmberg	1919.001US1

CONFIRMATION NO. 9606

OC000000023310637

OC000000023310637

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 04/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2006.

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

April McGuire

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

FORMER ATTORNEY/AGENT COPY

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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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	10/828,667
Filing Date	Apr 16, 2004
First Named Inventor	Qiang Fu
Art Unit	1711
Examiner Name	Irina S. Zemel
Attorney Docket Number	1863.023US1

RECEIVED
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JAN 09 2007

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

Approved 2-7-07
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 21186

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The practitioner is discharged by the client - CFR 10.40 (b) (4)

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Ellen M. Gonzales Gonzales Patent Services				
Address	4605 Congress Avenue				
City	Albuquerque	State	NM	Zip	87114
Country	United States of America				
Telephone		Email			

Signature	Robin A. Chadwick		
Name	Robin A. Chadwick	Registration No.	38,477
Date	Dec. 30, 2006	Telephone No.	612-373-6900

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/826,674	04/16/2004	2661	1382	MS1-1961US	9	42	4

CONFIRMATION NO. 9579

UPDATED FILING RECEIPT

OC000000013562055

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 08/17/2004

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

Applicant(s)

Yu Chen, Beijing, CHINA;
Zheng Zhang, Beijing, CHINA;
Xing Xie, Beijing, CHINA;
Shiding Lin, Beijing, CHINA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2004

Projected Publication Date: 10/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Data overlay, self-organized metadata overlay, and application level multicasting

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of	:	
Weltzin et al.	:	
Application No. 10/826,680	:	LETTER REGARDING
Filed: April 16, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 06132/091001	:	

This letter is in response to the "Submission Concerning Patent Term Adjustment Calculation" filed July 10, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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

The Office has updated the PALM screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 371 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 10, 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 the patent term adjustment to date is 547 days.

Applicants state "the patent term adjustment indicated in the Determination appears to be longer than appropriate." Applicants do not state a basis for their disclosure that the Patent Term Adjustment on the Notice of Allowance disagrees with their apparent calculation of patent term adjustment. However, a review of the record reveals that the initial determination of patent term adjustment of 547 days is incorrect.

The Office mailed a final Office action on December 14, 2007. The final Office action allowed 2 claims and rejected 20 claims. Applicants filed a Notice of Appeal on June 16, 2008. Applicants filed a request for a five-month extension of time on January 15, 2009, but did not file a reply brief. The Office mailed a "Communication Re: Appeal" on April 10, 2009, stating the appeal was dismissed.[1] The Office also mailed a Notice of Allowance on April 10, 2009.

[1] 37 C.F.R. § 41.37(b) states, "On failure to [timely] file the brief, accompanied by the required fee, ... the appeal will stand dismissed."

The Office entered an increase in patent term adjustment of 176 days for delay in the filing of the Notice of Allowance. In other words, the Office increased the patent term adjustment by the number of days beginning on the day after the date four months after the Notice of Appeal was filed and ending on the date the Notice of Allowance was mailed.

The 176 day increase in patent term adjustment is not supported by any of the grounds listed in 37 C.F.R. § 1.703(a) and was improper. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii), entry of a period of adjustment for Office failure to respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken is proper. However, the phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. Moreover, the phrase "appeal brief in compliance with 37 CFR 1.192" requires that: (1) the appeal brief fee (37 CFR 1.17(c)) be paid (37 CFR 1.192(a)); and (2) the appeal brief complies with 37 CFR 1.192(c)(1) through (c)(9). 37 CFR 1.703(a)(4) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii) and specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with 37 CFR 1.192 was filed and ending on the mailing date of any of an examiner's answer under 37 CFR 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. In this instance, no appeal was taken as no appeal brief was filed. See MPEP 2731. Accordingly, the 176-day increase in patent term adjustment will be removed.

In view of the prior discussion, the patent term adjustment at the time of mailing of the notice of allowance is 371 days.

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

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Thursday
Date: 12/3/2009

PALM INTRANET

Time: 18:13:04

PTA Calculations for Application: 10/826680			
Application Filing Date:	04/16/2004	PTO Delay (PTO):	723
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	176
Post-Issue Petitions:	0	Total PTA (days):	371
PTO Delay Adjustment:	-176		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	12/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		176	
63	04/10/2009	MAIL NOTICE OF ALLOWANCE	176		51
62	04/07/2009	ISSUE REVISION COMPLETED			
61	04/01/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
60	04/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	03/27/2009	ELECTRONIC REVIEW			
58	03/27/2009	EMAIL NOTIFICATION			
57	03/27/2009	PG-PUB NOTICE OF NEW OR REVISED PROJECTED PUBLICATION DATE			
56	03/16/2009	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
54	03/04/2009	DOCUMENT VERIFICATION			
52	02/27/2009	NOTICE OF ALLOWABILITY			
51	06/16/2008	NOTICE OF APPEAL FILED		94	47
50	06/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	12/15/2007	ELECTRONIC REVIEW			
48	12/14/2007	EMAIL NOTIFICATION			
47	12/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
46	12/10/2007	FINAL REJECTION			
43	10/01/2007	PARALEGAL TD ACCEPTED			
42	10/01/2007	PARALEGAL TD ACCEPTED			
41	09/24/2007	TERMINAL DISCLAIMER FILED		0	38
40	09/24/2007	TERMINAL DISCLAIMER FILED			
39	09/28/2007	DATE FORWARDED TO EXAMINER			

38	09/24/2007	RESPONSE AFTER NON-FINAL ACTION		63	36
37	09/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	04/23/2007	MAIL NON-FINAL REJECTION			
35	04/19/2007	NON-FINAL REJECTION			
34	03/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	03/05/2007	REFERENCE CAPTURE ON IDS			
32.7	03/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		19	30
32	03/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/22/2007	DATE FORWARDED TO EXAMINER			
30	02/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	02/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/15/2006	MAIL RESTRICTION REQUIREMENT	547		-1
27	12/11/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
26	07/19/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	11/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/12/2005	RECEIPT OF ACKNOWLEDGMENT LETTER			
23	11/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	11/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	07/19/2004	REFERENCE CAPTURE ON IDS			
20.7	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/29/2004	APPLICATION RETURN FROM OIPE			
18	10/29/2004	APPLICATION RETURN TO OIPE			
17	10/29/2004	APPLICATION DISPATCHED FROM OIPE			
16	10/29/2004	APPLICATION IS NOW COMPLETE			
15	10/12/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
13	10/12/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
12	10/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
10	10/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	10/05/2004	AGENCY REFERRAL LETTER MAILED			
8	08/12/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	06/21/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	06/17/2004	AUTO REFERRED BY PALM PRE EXAM			
4	05/19/2004	CLEARED BY OIPE CSR			
3	05/19/2004	CASE CLASSIFIED BY OIPE			
2	04/26/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/16/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Mail Date: 04/20/2010

Applicant	: Richard A. Weltzin	: DECISION ON REQUEST FOR
Patent Number	: 7645456	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/826,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Mail Date: 05/17/2010

Applicant : Richard A. Weltzin
Patent Number : 7645456
Issue Date : 01/12/2010
Application No : 10/826,680
Filed : 04/16/2004

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

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

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

The patent term adjustment has been determined to be **877** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG LAW FIRM
A PROFESSIONAL CORPORATION
4370 ALPINE ROAD SUITE 106
PORTOLA VALLEY CA 94028

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Gatto et al.	:	
Application No. 10/826,686	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. CYBS5921	:	

This is a decision on the petition under 37 CFR 1.10(c), filed August 23, 2005, requesting that the above-identified application be accorded a filing date of April 15, 2004, rather than the presently accorded filing date of April 16, 2004.

Petitioner alleges that the application was deposited in Express Mail service on April 15, 2004. In support of the allegation, the petition is accompanied by a copy of a Customer Online Record of Express Mail label No. EO903339282US, indicating a date-in of April 15, 2004. Further, the label contains a United States Postal Service (USPS) stamp of April 15, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination to correct the filing date to April 15, 2004, and mail a corrected filing receipt.

Telephone inquiries 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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PATTON BOGGS, LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of Valerie Legrand, et. al. Application No. 10/826,690 Filed: April 19, 2004 Attorney Docket No. 022290.0116C1US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on October 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective

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

Office records show that the correct filing date for Application No. 10/492,129 is July 19, 2004, which is the date of completion of the 35 USC 371 requirements.

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

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

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

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

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

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks
Petitions Examiner
Office of Petitions

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PATTON BOGGS, LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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DEC 2 4 2008

In re Application of	:
Valerie Legrand, et. al.	:
Application No. 10/826,690	: DECISION ON PETITION
Filed: April 19, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 022290.0116C1US	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on January 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior

application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Petitioner states that "When this application was filed on April 19, 2004, the application number of the parent application, filed April 7, 2004, was unavailable. As such, the application number of the parent application was not provided at the time of filing".

Any benefit claim that does not both identify a prior application by its application number and specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120. Such benefit claim may not be recognized by the Office and may not be included on the filing receipt even if the claim appears in the first sentence(s) of the specification or an application data sheet. Therefore, as Application No. 10/492,129 was missing from the specification, on filing, it cannot be incorporated by reference.

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

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

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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PATTON BOGGS, LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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JUN 24 2009

OFFICE OF PETITIONS

In re Application of Valerie Legrand, et. al. Application No. 10/826,690 Filed: April 19, 2004 Attorney Docket No. 022290.0116C1US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on April 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the present petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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.

The instant petition fails to comply with (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52; directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit an Application Data Sheet (ADS) or a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).

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

By mail: Mail Stop PETITIONS
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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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JUL 29 2009

OFFICE OF PETITIONS

In re Application of Valerie Legrand, et. al. Application No. 10/826,690 Filed: April 19, 2004 Attorney Docket No. 022290.0116C1US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on July 7, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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.

This application is being forwarded to Technology Center Art Unit 1618 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/826,690	04/19/2004	1618	1316	022290.0116C1US	24	1

CONFIRMATION NO. 9585

CORRECTED FILING RECEIPT

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000037121048

Date Mailed: 07/29/2009

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)

Valerie Legrand, Lyon, FRANCE;
Catherine Castan, Orlienas, FRANCE;
Remi Meyrueix, Lyon, FRANCE;
Gerard Soula, Meyzieu, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 32042

Domestic Priority data as claimed by applicant

This application is a CIP of 10/492,129 07/19/2004 *
which is a 371 of PCT/FR02/03443 10/09/2002
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

FRANCE 01/12999 10/09/2001

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 **US 10/826,690**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Microparticulate oral galenical form for the delayed and controlled release of pharmaceutical active principles

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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AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TOLER & LARSON & ABEL L.L.P.
5000 PLAZA ON THE LAKE STE 265
AUSTIN TX 78746

In re Application of :

BISHOP, THOMAS P., et al. :
Application No. 10/826,719 :
Filed: April 16, 2004 :
For: **METHOD AND SYSTEM FOR APPLICATION-AWARE NETWORK QUALITY OF SERVICE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 29, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEARNE & GORDON LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

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MAR 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Russell F. McKnight, et al.	:	
Application No. 10/826,722	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. AC-09190-US-TR	:	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 4, 2010.

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

A review of the file record indicates that the power of attorney to Pearne & Gordon, LLP has been revoked by the assignee of the patent application on January 11, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WPAT, PC**
2030 Main Street, Suite 1300
Irvine, CA 92614

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LAWRENCE P KESSLER
PATENT DEPARTMENT
NEXPRESS SOLUTIONS LLC
1447 ST PAUL STREET
ROCHESTER NY 14653-7103

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Morgenweck, et al.	:	
Application No. 10/826,734	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 81768/LPK	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 9, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed July 5, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on October 6, 2006. A Notice of Abandonment was mailed on January 30, 2007.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO date stamped postcard receipt dated October 4, 2006, and itemizing an amendment.

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.

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

The matter is being forwarded to Group Art Unit 2852 for consideration of the amendment filed October 4, 2006 (copy supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

In re Application of
Nakajima, et al.
Application No. 10/826,743
Filed: 16 April, 2004
Attorney Docket No. 60583(50530)

DECISION ON PETITION

This is a decision in reply to the petition filed on 11 February, 2008, under 37 CFR 1.47(a), averring the failure of an inventor to sign/join in the oath/declaration.

> **NOTE**: There is no indication that Petitioner herein was ever empowered to prosecute the instant application.
>
> If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be 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.

The petition under 37 CFR 1.47 is **DISMISSED as inappropriate and as moot**.

It appears that Petitioner Suanne Nakajima (Reg. No. L0344) may have filed this petition inappropriately, in that there is an averment that co-inventor Brian Porter has not signed the oath/declaration is in conflict with the evidence that the oath/declaration filed of record on 27 August, 2004, indicates the the signature of one identified as "Brian Porter."

Moreover, the instant application issued on 13 February, 2008, as Patent No. 7,176,208.

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

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot**.

The instant application is released IFW Files Repository.

[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). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc:
SUANNE NAKAJIMA
ELMORE PATENT LAW GROUP, P.C.
209 MAIN STREET
NORTH CHELMSFORD, MA 01863

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Wayne T. Lilian et al :
Application No. 10/826,746 :
Filed: April 16, 2004 :
Attorney Docket No. H0006149(256.206US1) :

ON PETITION

This is a decision on the petition, filed October 12, 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 19, 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 2811 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEARNE & GORDON LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

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MAR 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Boger, et al.	:	
Application No. 10/826,749	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. AC-09205-US-TR	:	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 4, 2010.

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

A review of the file record indicates that the power of attorney to Pearne & Gordon, LLP has been revoked by the assignee of the patent application on January 11, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WPAT, PC**
2030 Main Street, Suite 1300
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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SEP 04 2008

OFFICE OF PETITIONS

In re Application of

ALVAREZ, Romeo Emmanuel P.
Application No. 10/826,752
Filed: April 16, 2004
Attorney Docket No. **APS01-002B**

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 02, 2008.

The request is **APPROVED**.

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

The request was signed by Stephen Ackerman, the sole attorney of record. Stephen Ackerman 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 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 at the first copied address below until otherwise properly notified by the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROMEO EMMANUEL P. ALVAREZ**
526 WOODLANDS DRIVE 14 #07-463
SINGAPORE 730526

cc: **ADVANPACK SOLUTION PTE. LTD.**
ATTN: CK ONG
35 MARSILING INDUSTRIAL ESTATE ROAD 3 #05-04
SINGAPORE 739257

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEVON A. ROLF
GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
OLATHE, KS 66062

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Scott Burgett et al :
Application No. 10/826,754 :
Filed: April 16, 2004 :
Attorney Docket No. 702.348 :

This is a decision on the petition filed, August 24, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 10, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 11, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on August 24, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 24, 2005.

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

This matters is being referred to Technology Center AU 3662 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

In re Application of

SWEETING, Michael et al.
Application No. 10/826,779
Filed: April 16, 2004
Attorney Docket No. **03-1083**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. There is an outstanding Office action mailed March 04, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL SWEETING**
INNES HOUSE
10 AYLING LANE
ALDERSHOT, ENGLAND, GU11 3LZ
UNITED KINGDOM

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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October 16, 2006

Patent No. : 7,052,819 B2
Ser. No. : 10/826780
Inventor(s) : Simpson
Issued : May 30, 2006
Title : **PHOTOTHERMOGRAPHIC MATERIALS WITH IMPROVED NATURAL AGE KEEPING**
Docket No. : 87075/CPK

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.

Comparison of the patent in **item 45 (*)**,with the corresponding location in the application file reveals that there is no discrepancy.

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

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

CBN/eme

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

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of Holtorf et al.	:	
Application No. 10/826,781	:	Decision on Petition
Filing Date: April 16, 2004	:	
Attorney Docket No. 042933/274650	:	

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed March 17, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 18, 2006.

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

The Notice of Appeal filed September 21, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The sum of $1,020 was charged to petitioner's deposit account for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the $1,020 has been credited back to petitioner's deposit account.

Technology Center Art Unit 2614 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA, MD 20817

In re Application of	:	
David M. Stamper, et. al.	:	
Application No. 10/826,789	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 84,238	:	

This is a decision on the petition under 37 CFR 1.137(b), on June 20, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Restriction/Election Requirement mailed November 15, 2007. A Notice of Abandonment was mailed on June 13, 2008.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Dave A. Ghatt appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an election and amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1797 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
OVERBY, et al.	:	
Application No. 10/826,794	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. **84,720**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 R. Boalick. Scott R. Boalick 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 the undersigned at (571) 272-7253.

Monica A. Graves
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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WEAVER AUSTIN VILLENEUVE
SAMPSON LLP
ATTN: SANDISK
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Robert C. Miller et al	:	
Application No. 10/826,796	:	DECISION GRANTING PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 250543-37900	:	

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Parsons appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Parsons desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

---

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

This application is being referred to Technology Center AU 2111 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

cc:

DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 07/06/09

Patent No. : 7542566 B2
Ser. No. : 10/826,814
Inventor(s) : HENRY, G. GLENN
Issued : 06/02/09
Title : **APPARATUS AND METHOD FOR PERFORMING TRANSPARENT CIPHER BLOCK CHAINING MODE CRYPTOGRAPHIC FUNCTIONS**
Docket No. : **CNTR.2226**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

LMN

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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Henry et al.	:	
Application No. 10/826814	:	DECISION
Filing or 371(c) Date: 04/16/2004	:	ON PETITION
Patent No.: 7,542,566	:	
Issue Date: 06/02/2009	:	
Attorney Docket Number:	:	
CNTR.2226	:	

This is a decision on the "Request Under 37 CFR 3.81(b) to Correct Assignee Name," filed August 4, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

Petitioner files the present petition and requests correction of the assignee, to Via Technologies, Inc., Taipei, Taiwan. The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Via Technologies, Inc., Taipei, Taiwan, is the assignee of record. 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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM M HANLON, JR
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084-3107

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OFFICE OF PETITIONS

In re Application of	:	
Steven P. Krzyskowski et al	:	DECISION ON PETITION
Application No. 10/826,821	:	TO WITHDRAW
Filed: April 16, 2004	:	FROM RECORD
Attorney Docket No. KPS-100-B	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 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 Andrew R. Basile Jr. on behalf of all attorneys of record who are associated with customer No. 22825.

All attorneys/agents associated with the Customer Number 22825 have been withdrawn.

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

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

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

This matter is being referred to Technology Center AU 3749.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: EZ CONCEPTS, INC.
9459 NEWTON PLACE
COMMERCE, MI 48390

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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RISTO A. RINNE, JR.
COMPLETE PATENTING SERVICES
2173 EAST FRANCISCO BOULEVARD, SUITE E
SAN RAFAEL, CA 94901

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OFFICE OF PETITIONS

In re Application of :
Edmond H. Lim :
Application No. 10/826,830 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. LIM3 :

This is a decision on the petition, filed July 14, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on July 14, 2006. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action and Notice of Non-Compliant Amendment. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the required reply as noted above.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action and Notice of Non-Compliant Amendment

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/826,830	LIM, EDMOND HENG	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

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

THE REPLY FILED 7/14/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Alfred Joseph Wujciak III
Primary Examiner
Art Unit: 3632

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/826,830	LIM, EDMOND HENG	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

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

The amendment document filed on *14 July 2006* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other _____.

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other _____.

☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
- ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
- ☐ C. Other _____.

☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: *The applicant fails to show marked up change for claim 21 using underline, bracket or strikethrough. The orginal claim filed on (4/16/04) and amended claim filed on 8/8/05 contain method structure in claim 21. The amendment filed on 7/14/06 contains no method structure in claim 21 and failed to show marked up change..*.

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

_____ _____

Legal Instruments Examiner (LIE), if applicable Telephone No.

Continuation of 4(e) Other: Claims 11-12 and 14, "(previously amended)" should be changed to ---(previously presented)--- and claim 21, "(re-presented)" should be changed to ---(previously presented)--- for clarification. .

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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RISTO A. RINNE, JR.
COMPLETE PATENTING SERVICES
2173 EAST FRANCISCO BOULEVARD, SUITE E
SAN RAFAEL, CA 94901

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SEP 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Edmond Heng Lim	:	
Application No. 10/826,830	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. LIM3	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 4, 2006. On July 14, 2006 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 8, 2007. In response, on May 7, 2007, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). The application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

It is noted that fees were also charged in association with a May 11, 2007 Petition under 37 CFR 1.137(b) and Request for Continued Examination (RCE). Since the second petition and RCE are not necessary in view of the present petition, the $750 and $395 fees paid therefor on May 11, 2007 are being credited to counsel's deposit account.

This application is being referred to Technology Center AU 3632 for processing of the RCE filed May 7, 2007 and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

COOK, ALEX, McFARRON, MANZO
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Patent No. 7,601,435	: DECISION ON REQUEST FOR
SHITAGAKI et al.	: RECONSIDERATION OF
Issue Date: October 13, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/826,838	: AND
Filed: April 16, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 0553-0406	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 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 six hundred sixteen (616) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred sixteen (616) days is **GRANTED**.

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. 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 **six hundred sixteen (616) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,435 B2

DATED : Oct. 13, 2009 **DRAFT**

INVENTOR(S) : SHITAGAKI 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 348 days

Delete the phrase "by 348 days" and insert – by 616 days--

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: DEC 6 2004

CAF
Paper No.

In re Application of Schneider
Serial No.: 10/826,857
Filed: April 16, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: APPARATUS FOR CONTINUOUS JOINING AND/OR WELDING OF MATERIAL WEBS USING ULTRASOUND

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed April 16, 2004 to correct inventorship under 37 CFR 1.48(a) by adding **Josef Gmeiner** to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Christopher A. Fiorilla
Supervisory Patent Examiner
Art Unit 1734
Technology Center 1700

YOUNG, BASILE, HANLON, MacFARLANE,
WOOD & HELMHOLDT, P.C.
3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Faegre & Benson LLP
Patent Docketing
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark Colman et al :
Application No. 10/826,867 :
Filed: April 16, 2004 :
Attorney Docket No. 14389.2USU1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 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 above-identified application became abandoned for failure to submit the issue and publication fee in a timely manner in reply to the Notice of Allowance/Allowability mailed May 8, 2007 which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 9, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1) and (2). Neither the Issue and Publication Fee due nor the Petition Fee have been received.

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

Application No. 10/867,272

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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OFFICE OF PETITIONS

In re Application of	:	
Mark Colman et al.	:	
Application No. 10/826,867	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 332260	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance/Allowability mailed May 8, 2007 which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 9, 2007.

The petition decision mailed November 8, 2007 indicates the petition under 37 CFR 1.137(b) filed September 26, 2007 was dismissed as failing to provide the required issue fee and petition fee.

The renewed petition includes the required fees.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the filing of the issue fee is accepted as having been unintentionally delayed.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHI TECHNOLOGIES, INC.
LEGAL STAFF
P.O. BOX 5052
MAIL CODE: 480-410-202
TROY, MI 48007-5052

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of :	
Mostafa Abidi, Christian G. Hillard:	
and Remi B. Loevenbruck :	DECISION REFUSING STATUS
Application No. 10/826,872 :	UNDER 37 CFR 1.47(a)
Filed: April 16, 2004 :	
For: EVAPORATED FUEL PROCESSING DEVICE	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 30, 2004, (certificate of mailing: August 27, 2004).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 16, 2004 without an executed oath or declaration and naming Mostafa Abidi, Christian G. Hillard and Remi B. Loevenbruck as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on August 30, 2004, (certificate of mailing: August 27, 2004), the instant petition was filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (4), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only mailed the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Furthermore, applicant states, "Mr. Abidi was contacted by phone by assignee's employee and indicated an unwillingness to cooperate in signing the Declaration." Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers *and of the refusal* must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. See MPEP 409.03(d). Applicant should submit a statement by assignee's employee that spoke with the non-signing inventor that provides details of the conversation with the non-signing inventor.

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

The $130.00 petition fee will be charged to deposit account no. 50-0831.

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHI TECHNOLOGIES, INC.
LEGAL STAFF
P.O. BOX 5052
MAIL CODE: 480-410-202
TROY, MI 48007-5052

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DEC 27 2004
OFFICE OF PETITIONS

In re Application of	:
Mostafa Abidi, Christian G. Hillard:	
and Remi B. Loevenbruck	: DECISION REFUSING STATUS
Application No. 10/826,872	: UNDER 37 CFR 1.47(a)
Filed: April 16, 2004	:
For: EVAPORATED FUEL PROCESSING DEVICE	

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed December 16, 2004, (certificate of mailing: December 14, 2004).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 16, 2004 without an executed oath or declaration and naming Mostafa Abidi, Christian G. Hillard and Remi B. Loevenbruck as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing. On August 30, 2004, (certificate of mailing: August 27, 2004), a petition under 37 CFR 1.47(a) was filed, however, the petition was dismissed on October 14, 2004. In response, on December 16, 2004, (certificate of mailing: December 14, 2004)

the instant "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," was filed.

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

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

Applicant lacks item (1), as forth above.

Applicant stated in the August 30, 2004 petition: "Mr. Abidi was contacted by phone by assignee's employee and indicated an unwillingness to cooperate in signing the Declaration." Furthermore, applicant now states in the Ramon Martin declaration, "I was informed by Mr. Loevenbruck that Mr. Loevenbruck had contacted Mr. Abidi to obtain his execution of the Declaration, and that Mr. Abidi had refused to sign the Declaration, for reasons relating to the termination of his employment."

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers *and of the refusal* must be specified in a statement of facts by the person who presented the inventor with the application papers and/or *to whom the refusal was made*. Statements by a party not present when an oral refusal is made will *not* be accepted. See MPEP 409.03(d). Applicant should submit a statement by assignee's employee that spoke with the non-signing inventor and/or Mr. Loevenbruck that provides details of the conversation with the non-signing inventor in which the refusal to sign the Declaration was made.

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DELPHI TECHNOLOGIES, INC.
LEGAL STAFF
P.O. BOX 5052
MAIL CODE: 480-410-202
TROY, MI 48007-5052

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of
Mostafa Abidi, Christian G.
Hillard and Remi B.
Loevenbruck
Application No. 10/826,872
Filed: April 16, 2004
For: EVAPORATED FUEL
PROCESSING DEVICE

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 28, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor cannot be found or reached in the filing of the above-identified application.

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

The file is being forwarded to Technology Center 3700 for examination *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOSTAFA ABIDI
9, RUE GUIDO OPPENHEIM
L-2263
LUXEMBOURG

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Application of
Mostafa Abidi, Christian G. Hillard and Remi B. Loevenbruck
Application No. 10/826,872
Filed: April 16, 2004
For: EVAPORATED FUEL PROCESSING DEVICE

Dear Mostafa Abidi:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

DELPHI TECHNOLOGIES, INC.
LEGAL STAFF
P.O. BOX 5052
MAIL CODE: 480-410-202
TROY, MI 48007-5052

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

BAYER
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090

Mail Date: 07/02/2010

Applicant	: Joel M. Blatt	: DECISION ON REQUEST FOR
Patent Number	: 7635597	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/826,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **701** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
David A. FINE, et al	:	
Application No. 10/826,895	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1752USI1	:	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).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM W. HAEFLIGER
201 S. LAKE AVE
SUITE 512
PASADENA, CA 91101

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DEC 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Hovanes John Ter-Zakarian	:	
Application No. 10/826,901	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 12,616	:	37 CFR 1.102
	:	

This is a decision on the petition under 37 CFR 1.102(c), filed October 31, 2005, to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

Petitioner fails to indicate on what grounds he is petitioning to make special, i.e., manufacture, infringement, health, age, etc., as set forth in MPEP 708.02 Sections I-XII.[1] Petitions to make special are only accorded to applications meeting the requirements outlined in one of the categories set forth in MPEP 708.02. The Office is unable to review the instant petition on its merits. Therefore, the petition is dismissed.

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

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

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

By FAX: (571) 273-8300

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

[1] Rev. 3, Aug. 2005

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

This matter is being referred to Technology Center Art Unit 1617 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Richard Eugene Crandall	: DECISION ON REQUEST FOR
Patent Number	: 7643693	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/826,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1214** 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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OFFICE OF PETITIONS

WELSH & KATZZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

In re Application of	:	
Bernard H. Cohen	:	
Application No. 10/826,943	:	DECISION GRANTING PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 9211-91283	:	

This is a decision on the petition, filed September 2, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 15, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 12, 2006 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2859.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Stephen K. Pinto et al	:	
Application No. 10/826,950	:	DECISION ON PETITION
Filed: April 16, 2004	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 17146-0004001	:	

This is a decision on the petition under 37 CFR 1.313(c), filed February 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 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) 272-3208.

This application is being referred to Technology Center AU 2129 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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 12-04

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

COPY MAILED
DEC 0 7 2004
OFFICE OF PETITIONS

In re Application of	:
Ruat et al.	: DECISION GRANTING
Application No. 10/826,969	: PETITION
Filed: 31 March, 2004	:
Attorney Docket No. 01RO20754427	:

This is a decision on the paper styled as a request for a corrected filing receipt, filed on 20 July, 2004, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 31 March, 2004, rather than the presently accorded filing date of 30 March, 2004.

Petitioner alleges that the application was deposited in Express Mail service on 31 March, 2004. In support, on 20 July, 2004, petitioners supplied a copy of Express Mail Label No. EV330385775US (the same Express Mail number found on the itemized utility patent application transmittal accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "3-30-04" the label also contains an Official USPS postmark dated 31 March, 2004.

In view of the above, the correct date of deposit in Express Mail is 31 March, 2004.

In view of the above, the petition is granted. No petition fee is due.

A review of Office records indicates that a correcting filing receipt indicating a filing date of 31 March, 2004, was mailed on 13 August, 2004. As such, no further correction is necessary.

The application is being referred to Technology Center 2600 for examination in due course.

Application No. 10/826,969

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of
Clague et al.
Application No. 10/826,994
Filed: April 19, 2004
Attorney Docket No. P-21018.00

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 6, 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 petition under 37 CFR 1.78(a)(3) is **DISMISSED** as inappropriate.

The petition under 37 CFR 1.78(a)(6) is **DISMISSED**.

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

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

With respect to the petition under 37 CFR 1.78(a)(3), the reference has been reviewed and determined to be improper. 35 U.S.C 120 permits an applicant to claim the benefit of the earlier filing date of a prior-filed nonprovisional application. In this case, the instant application was filed on July 29, 2004. Both the amendment and Office records support a conclusion that the referenced application no. 11/047,026 was filed on January 31, 2005, and thus, is a later-filed application. As such 35 U.S.C. 120 and 37 CFR 1.78 do not apply.

With respect to the petition under 1.78(a)(6), the petition does not comply with item (1). This pending nonprovisional application was filed on April 19, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/548,438, which was filed on February 27, 2004 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, given the improper reference to the later filed application, the amendment is not acceptable as drafted.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either a signed Supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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OFFICE OF PETITIONS

In re Application of	:	
Clague et al.	:	
Application No. 10/826,994	:	DECISION ON PETITION
Filed: April 19, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P-21018.00	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 2, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1797 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/826,994	04/19/2004	1797	1400	P-21018.00	43	4

CONFIRMATION NO. 3521

CORRECTED FILING RECEIPT

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

OC000000030015700

Date Mailed: 05/19/2008

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)

Cynthia T. Clague, Minnetonka, MN;
Daniel S. Cheek, Plymouth, MN;
Douglas D. Nippoldt, Oakdale, MN;

Power of Attorney:

Daniel Latham--30401
Thomas Berry--31736
Stephen Bauer--32192
Jeffrey Hohenshell--34109
Paul McDowall--34873
Kenneth Collier--34982
Thomas Woods--36726
David Ruschke--40151
John Albrecht--40481
Michael Soldner--41455

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/548,438 02/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/826,994**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

BLOOD COAGULATION TEST CARTRIDGE, SYSTEM, AND METHOD

Preliminary Class

436

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

Mail Date: 04/20/2010

Applicant	: Steven P. Floeder	: DECISION ON REQUEST FOR
Patent Number	: 7623699	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/826,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1019** 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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3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: David Grabelsky	: DECISION ON REQUEST FOR
Patent Number	: 7634577	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1265** 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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Alexandria, VA 22313-1450
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JOHN LEZDEY& ASSOCIATES
2875 MCI DRIVE
PINELLAS PARK, FL 33782

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Dieter Dierks	:	DECISION ON PETITION
Application No. 10/827,012	:	TO MAKE SPECIAL UNDER
Filed: April 19, 2004	:	37 CFR 1.102
Attorney Docket No. 1440-37A	:	

This is a decision on the petition under 37 CFR 1.102, filed January 12, 2006 and resubmitted on January 17, 2006, to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

The Office is unable to review the instant petition on its merits because the petition fails to identify on what grounds the petitioner is requesting to make special under 37 CFR 1.102 (b), (c) or (d), which includes sections I-XII under MPEP 708.02. The conditions set forth in MPEP 708.02 include categories: (i) Manufacture, (II) Infringement, (III) Health, (IV) Age, (V) Environmental Quality, (VI) Energy, (VII) Recombinant DNA, (VIII) Accelerated Examination, (IX) Superconductivity, (X) HIV/AIDS and Cancer, (XI) Countering Terrorism, and (XII) Biotechnology filed by Small Entities. Petitions to make special are accorded to applications meeting the requirements outlined in one of the categories as set forth in MPEP 708.02. Therefore, the petition is dismissed.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to Technology Center AU 2655 for action in its regular turn.

Dennis Nottin for

Amelia Au
Petitions Examiner
Office of Petitions

Enclosure: MPEP 708.02

(C) Applications for reissues, particularly those involved in stayed litigation (37 CFR 1.176).

(D) Applications remanded by an appellate tribunal for further action.

(E) An application, once taken up for action by an examiner according to its effective filing date, should be treated as special by an examiner, art unit or Technology Center to which it may subsequently be transferred; exemplary situations include new cases transferred as the result of a telephone election and cases transferred as the result of a timely reply to any official action.

(F) Applications which appear to interfere with other applications previously considered and found to be allowable, or which will be placed in interference with an unexpired patent or patents.

(G) Applications ready for allowance, or ready for allowance except as to formal matters.

(H) Applications which are in condition for final rejection.

(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.

(J) Reexamination proceedings, MPEP § 2261 >and § 2661<.

See also MPEP § 714.13, § 1207 and § 1309.

708.02 Petition To Make Special [R-3]

37 CFR 1.102. Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.<

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

**>

(c) A petition to make an application special may be filed without a fee if the basis for the petition is:

(1) The applicant's age or health; or

(2) That the invention will materially:

(i) Enhance the quality of the environment;

(ii) Contribute to the development or conservation of energy resources; or

(iii) Contribute to countering terrorism.<

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

New applications ordinarily are taken up for examination in the order of their effective United States filing dates. Certain exceptions are made by way of petitions to make special, which may be granted under the conditions set forth below.>Any statement in support of a petition to make special must be based on a good faith belief that the invention in fact qualifies for special status. See 37 CFR 1.56 and 10.18.<

I. MANUFACTURE

An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;

If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, 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 the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

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.

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.

Models or specimens of the infringing product or that of the application should not be submitted unless requested.

III. APPLICANT'S HEALTH

An application may be made special upon a petition by applicant accompanied by any evidence showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course, such as a doctor's certificate or other medical certificate. No fee is required for such a petition. See 37 CFR 1.102(c).

>Personal/medical information submitted as evidence to support the petition will be available to the public if the application file and contents are available to the public pursuant to 37 CFR 1.11 or 1.14. If applicant does not wish to have this information become part of the application file record, the information must be submitted pursuant to MPEP § 724.02.<

IV. APPLICANT'S AGE

An application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement. No fee is required with such a petition. See 37 CFR 1.102(c).

>Personal/medical information submitted as evidence to support the petition will be available to the public if the application file and contents are available to the public pursuant to 37 CFR 1.11 or 1.14. If applicant does not wish to have this information become part of the application file record, the information must be submitted pursuant to MPEP § 724.02.<

V. ENVIRONMENTAL QUALITY

The U.S. Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil.

All applicants desiring to participate in this program should petition that their applications be accorded "special" status. **>The petition under 37 CFR 1.102 must state that special status is sought because the invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements.< No fee is required for such a petition. See 37 CFR 1.102(c). >If the application disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially enhance the quality of the environment. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may enhance the quality of the environment.<

VI. ENERGY

The U.S. Patent and Trademark Office will, on petition, accord "special" status to all patent applications for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc.

All applicants desiring to participate in this program should petition that their applications be accorded "special" status. **>The petition under 37 CFR 1.102 must state that special status is sought because the invention materially contributes to category (A) or (B) set forth above.< No fee is required for such a petition, 37 CFR 1.102(c).>If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B). Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to category (A) or (B).<

VII. INVENTIONS RELATING TO RECOMBINANT DNA

In recent years revolutionary genetic research has been conducted involving recombinant deoxyribonucleic acid ("recombinant DNA"). Recombinant DNA research appears to have extraordinary potential benefit for mankind. It has been suggested, for example, that research in this field might lead to ways of controlling or treating cancer and hereditary defects. The technology also has possible applications in agriculture and industry. It has been likened in importance to the discovery of nuclear fission and fusion. At the same time, concern has been expressed over the safety of this type of research. The National Institutes of Health (NIH) has released guidelines for the conduct of research concerning recombinant DNA. These "Guidelines for Research Involving Recombination DNA Molecules," were published in the *Federal Register* of July 7, 1976, 41 FR 27902-27943. NIH is sponsoring experimental work to identify possible hazards and safety practices and procedures.

In view of the exceptional importance of recombinant DNA and the desirability of prompt disclosure of developments in the field, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to safety of research in the field of recombinant DNA. Upon appropriate petition and payment of the fee under 37 CFR 1.17(h), the Office will make special patent applications for inventions relating to safety of research in the field of recombinant DNA. Petitions for special status should be accompanied by statements under 37 CFR 1.102 by the applicant, assignee, or statements by an attorney/agent registered to practice before the Office explaining the relationship of the invention to safety of research in the field of recombinant DNA research. The fee set forth under 37 CFR 1.17(h) must also be paid.

VIII. SPECIAL EXAMINING PROCEDURE FOR CERTAIN NEW APPLICATIONS — ACCELERATED EXAMINATION

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

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

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

The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.

If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.

If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

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

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

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

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.

Once a request has been granted, prosecution will proceed according to the procedure set forth below; there is no provision for "withdrawal" from this special status.

The special examining procedure of VIII (accelerated examination) involves the following procedures:

(A) The new application, having been granted special status as a result of compliance with the requirements set out above will be taken up by the examiner before all other categories of applications except those clearly in condition for allowance and those with set time limits, such as examiner's answers, etc., and will be given a complete first action which will include *all* essential matters of merit as to all claims. The examiner's search will be restricted to the *subject matter encompassed by the claims*. A first action rejection will set a 3-month shortened period for reply.

(B) During the 3-month period for reply, applicant is encouraged to arrange for an interview with the examiner in order to resolve, with finality, as many issues as possible. In order to afford the examiner time for reflective consideration before the interview, applicant or his or her representative should cause to be placed in the hands of the examiner at least one working day prior to the interview, a copy (clearly denoted as such) of the amendment that he or she proposes to file in response to the examiner's action. Such a paper will not become a part of the file, but will form a basis for discussion at the interview.

(C) Subsequent to the interview, or responsive to the examiner's first action if no interview was had, applicant will file the "record" reply. The reply at this stage, to be proper, must be restricted to the rejections, objections, and requirements made. Any amendment which would require broadening the search field will be treated as an improper reply.

(D) The examiner will, within 1 month from the date of receipt of applicant's formal reply, take up the application for final disposition. This disposition will constitute either a final action which terminates with the setting of a 3-month period for reply, or a notice of allowance. The examiner's reply to any amendment submitted after final rejection should be prompt and by way of form PTOL-303, by passing the application to issue, or by an examiner's answer should applicant choose to file an appeal brief at this time. The use of these forms is not intended to open the door to further prosecution. Of course, where relatively minor issues

or deficiencies might be easily resolved, the examiner may use the telephone to inform the applicant of such.

(E) A personal interview after a final Office action will not be permitted unless requested by the examiner. However, telephonic interviews will be permitted where appropriate for the purpose of correcting any minor outstanding matters.

After allowance, these applications are given top priority for printing. See MPEP § 1309.

IX. SPECIAL STATUS FOR PATENT APPLICATIONS RELATING TO SUPERCONDUCTIVITY

In accordance with the President's mandate directing the U.S. Patent and Trademark Office to accelerate the processing of patent applications and adjudication of disputes involving superconductivity technologies when requested by the applicant to do so, the U.S. Patent and Trademark Office will, on request, accord "special" status to all patent applications for inventions involving superconductivity materials. Examples of such inventions would include those directed to superconductive materials themselves as well as to their manufacture and application. In order that the U.S. Patent and Trademark Office may implement this procedure, we invite all applicants desiring to participate in this program to request that their applications be accorded "special" status. Such requests should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials. No fee is required.

X. INVENTIONS RELATING TO HIV/AIDS AND CANCER

In view of the importance of developing treatments and cures for HIV/AIDS and cancer and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to HIV/AIDS and cancer.

Applicants who desire that an application relating to HIV/AIDS or cancer be made special should file a petition and the fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

XI. INVENTIONS FOR COUNTERING TERRORISM

In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications **>for inventions which materially contribute 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..." 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.

**>All applicants desiring to participate in this program should petition that their applications be accorded special status. The petition under 37 CFR 1.102 must state that special status is sought because the invention materially contributes to countering terrorism. No fee is required for such a petition. See 37 CFR 1.102(c). If the application disclosure is not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materiality contributes to countering terrorism. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism.<

XII. SPECIAL STATUS FOR APPLICATIONS RELATING TO BIOTECHNOLOGY FILED BY APPLICANTS WHO ARE SMALL ENTITIES

Applicants who are small entities may request that their biotechnology applications be granted "special" status. Applicant must file a petition with the petition fee under 37 CFR 1.17(h) requesting the special status and must:

(A) state that small entity status has been established or include a statement establishing small entity status;

(B) state that the subject of the patent application is a major asset of the small entity; and

(C) state that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

FORMAL REQUIREMENTS OF PETITION TO MAKE SPECIAL

Any petition to make special should:

(A) be in writing; and

(B) identify the application by application number and filing date.

HANDLING OF PETITIONS TO MAKE SPECIAL

Applications which have been made special will be advanced out of turn for examination and will continue to be treated as special throughout the entire prosecution in the Office.

Each petition to make special, regardless of the ground upon which the petition is based and the nature of the decision, is made of record in the application file, together with the decision thereon. The part of the Office that rules on a petition is responsible for properly entering that petition and the resulting decision in the file record. The petition, with any attached papers and supporting affidavits, will be given a single paper number and so entered in the "Contents" of the file. The decision will be accorded a separate paper number and similarly entered. To ensure entries in the "Contents" in proper order, the technical support staff in the TC will make certain that all papers prior to a petition have been entered and/or listed in the application file before forwarding it for consideration of the petition. Note MPEP § 1002.02 (s). For Image File Wrapper (IFW) processing, see IFW Manual.

Petitions to make special are decided by the Special Program Examiner of the TC to which the application is assigned.

708.03 Examiner Tenders Resignation [R-2]

Whenever an examiner tenders his or her resignation, the supervisory patent examiner should see that the remaining time as far as possible is used in winding up the old complicated cases or those with involved records and getting as many of his or her amended cases as possible ready for final disposition.

If the examiner has considerable experience in his or her particular art, it is also advantageous to the Office if he or she indicates (in pencil) in the file wrappers of application in his or her docket, the field of search or other pertinent data that he or she considers appropriate. >For Image File Wrapper (IFW) processing, see IFW Manual.<

709 Suspension of Action [R-3]

37 CFR 1.103. Suspension of action by the Office.

(a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

**>

(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.<

(b) *Limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d).* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph in a continued prosecution application filed under § 1.53(d) for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for an application filed under § 1.53(d), specify the period of suspension, and include the processing fee set forth in § 1.17(i).

(c) *Limited suspension of action after a request for continued application (RCE) under § 1.114.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph after the filing of a request for continued examina-

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

Mail Date: 04/20/2010

Applicant	: B. Raghava Reddy	: DECISION ON REQUEST FOR
Patent Number	: 7607483	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **313** 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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JOHN W. GOLDSCHMIDT, JR. ESQUIRE
DILWORTH PAXON LLP
3200 MELLON BANK CENTER
1735 MARKET STREET
PHILADELPHIA, PA 19103

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruce Blazar, et al.	:	
Application No. 10/827,023	:	DECISION ON PETITION
Filed: April 19, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 22253-76278	:	

This is a decision on the petition, filed March 17, 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 prior-filed provisional application No. 60/463,591.

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 petition does not comply with item (1) above. The statement contained in the petition is unacceptable as an "amendment" and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a

separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

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

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

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

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3200 MELLON BANK CENTER
1735 MARKET STREET
PHILADELPHIA, PA 19103

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruce Blazer, et al.	:	
Application No. 10/827,023	:	DECISION ON PETITION
Filed: April 19, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 22253-76278		

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment. Counsel's deposit account is being credited $1370, since a petition fee was inadvertently charged for the renewed petition under 37 CFR 1.78(a)(6).

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 19, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/463,591, which was filed on April 17, 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 PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

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FEB 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Bruce Blazar, et al.	:	
Application No. 10/827,023	:	DECISION ON PETITION
Filed: April 19, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 22253-76278	:	

This is a decision on the renewed petition, filed January 23, 2006, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The 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.

Having found that 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), the petition is granted.

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

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

The Revocation and Power Attorney filed January 23, 2006 is **not** acceptable, since it appears that the Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. However, in accordance with 37 CFR 1.34(a), the signature of Evelyn H. McConathy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. A courtesy copy of this decision is being mailed to petitioner. However, if Ms. McConathy desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

It is noted that the requisite petition fee was submitted with the original petition under 37 CFR 1.78(a)(6) on March 17, 2005. Accordingly, the $1,370 erroneously charged for treatment of this renewed petition is being credited to counsel's deposit account.

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 1636 for appropriate action on the amendment submitted January 23, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/463,591.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: EVELYN H. MCCONATHY
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH & CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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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
10/827,023	04/19/2004	1636	495	22253-76278	22	25	1

CONFIRMATION NO. 2495
CORRECTED FILING RECEIPT
OC000000018051156
OC000000018051156

27730
JOHN W. GOLDSCHMIDT, JR. ESQUIRE
DILWORTH PAXON LLP
3200 MELLON BANK CENTER
1735 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 02/14/2006

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)

Bruce Blazar, Golden Valley, MN;
Carl June, Merion Station, PA;
Wayne R. Godfrey, Birchwood, MN;
Richard G. Carroll, Lansdowne, PA;
Bruce Levine, Cherry Hill, NJ;
James L. Riley, Downingtown, PA;
Patricia Taylor, St. Paul, MN;

Power of Attorney: The patent practitioners associated with Customer Number **27730**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/550,481 03/05/2004
and claims benefit of 60/463,591 04/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/827,023

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Regulatory T cells and their use in immunotherapy and suppression of autoimmune responses

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 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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THOMTE MAZOUR & NIEBERGALL LLC
2120 S 72ND STREET SUITE 1111
OMAHA NE 68124

In re Application of	:	
Raymon W. Lush	:	
Application No. 10/827,034	:	DECISION ON PETITION
Filed: April 19, 2004	:	
Title: Squirrel Repelling Hanger for a Bird Feeder or the Like	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 30, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed July 6, 2005. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned by matter of law on October 7, 2005. A Notice of Abandonment was mailed on November 23, 2005.

Petitioner asserts that the Notice of Allowance was mailed to the incorrect address. A review of the record reveals that petitioner filed a Power of Attorney and Correspondence Address that was filed on April 26, 2005. It is obvious from reviewing the file that the Power of Attorney and Correspondence Address was not entered, and that the Notice of Allowance was erroneously mailed to the incorrect address.

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

The matter is being forwarded to Group Art Unit 3643 for re-mailing of the Notice of Allowance and Notice of Allowability, to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/827,044	04/19/2004	2635	1360	2002-055	8	48	4

CONFIRMATION NO. 2743

CORRECTED FILING RECEIPT

OC000000013727315

24112
COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

Date Mailed: 09/07/2004

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

Applicant(s)

Matthew J. Murray, Raleigh, NC;
Michael D. Townsend, Durham, NC;
Chris Eaton, Cary, NC;
Gregory S. Patterson, Morrisville, NC;

Power of Attorney: The patent practitioners associated with Customer Number **24112**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/533,644 12/31/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/827,044

Projected Publication Date: 06/30/2005

Non-Publication Request: No

Early Publication Request: No

Title

Variable-eccentricity tactile generator

Preliminary Class

340

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

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NOV 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,494,642 :
Issued: February 24, 2009 :
Application No. 10/827,054 : PATENT TERM ADJUSTMENT
Filed: April 19, 2004 :
Dkt. No.: 62041(51588) :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed April 24, 2009. Patentee requests correction of the patent term adjustment from 439 days to 657 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

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

The above-identified application matured into U.S. Pat. No. 7,494,642 on February 24, 2009. The patent issued with a patent term adjustment of 439 days. Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 657 days (472 days pursuant to 35 USC 154(b)(1)(A) *plus* 218 days pursuant to 35 USC 154(b)(1)(B) *less* 33 days of applicant delay).

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

The Office asserts that as of the filing of the request for continued examination (RCE) on November 23, 2007, the application was pending three years and 217 days after its filing date (April 20, 2007 to November 22, 2007). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 472 days is correct. At issue is whether patentees should accrue 217 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 472 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 217 days of delay in issuing the patent overlaps with the 472 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

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

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending 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.

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

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

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)(1)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 19, 2004, and ending on November 22, 2007, the day before the date that the RCE was filed was November 23, 2007.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 459 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 217 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 217 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 459 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 217 days and the 459 days is neither permitted nor warranted given that 459 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 439 days of patent term adjustment, having considered the 217 days of Office delay under the three-year pendency provision in conjunction with the 459 days of delay under 37 CFR 1.702(a)(1) and the 13 day delay under 37 CFR 1.702(a)(2), reduced 33 days for applicants' delay.

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

No additional fees are due in connection with this matter.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 06/08/2010

Applicant	: David R. Cheriton	: DECISION ON REQUEST FOR
Patent Number	: 7630312	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/827,068	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 19 2007

OFFICE OF PETITIONS

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of	:	
Rajiv Doshi	:	
Application No. 10/827,073	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO WITHDRAW
Attorney Docket No. DOSHI.001C1	:	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 14, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the applicant of the patent application on August 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Glenn LLP**
2755 Campus Drive, Suite 210
San Mateo, CA 94403

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John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street
Atlanta, GA 30309

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of
LARSEN, James Wagner
Application No.: 10/827,089
Filing Date: April 19, 2004
Docket No.: 14088/299978
For: SYSTEMS AND METHODS USEFUL FOR DETECTING PRESENCE AND/OR LOCATION OF VARIOUS METALS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on April 25, 2005. The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to a non-final Office Action mailed October 20, 2004. This Notice set a three (3) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). The time period to respond expired at midnight on January 20, 2005.

Petitioners have met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted amended claims, replacement drawings, the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the extension of time submitted with the petition was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to the applicant.

This application is being forwarded to Tech Center AU 2863 for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 2004

GREENBERG TRAURIG, LLP
885 Third Avenue
New York, NY 10022

AUG 24 2004

In re Application of:	:	
Nicholas L. Disalvo et al.	:	DECISION ON PETITION
Serial No.: 10/827,093	:	TO MAKE SPECIAL
Filed: April 19, 2004	:	
Attorney Docket No.: 1415CIP3CON3	:	

This is a decision on the petition filed on April 19, 2004 under 37 C.F.R. § 1.102(d) requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

The petition is GRANTED.

MPEP § 708.02 II requires, besides a petition, petition fee and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, 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 good knowledge of the pertinent prior art.

The petition filed April 19, 2004 with the incorporated declaration has been considered and found to comply with all the requirements set forth in MPEP § 708.02 II.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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MICHAEL C BARRETT ESQ
FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

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JAN 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Fort, et al.	:	DECISION ON PETITION
Application No. 10/827,104	:	
Filed: April 19, 2004	:	
Attorney Docket No. FOCH:002US	:	

This is a decision on the petition to revive pursuant to 37 CFR 1.137(b), filed November 30, 2005.

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 decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed June 28, 2004. This Notice set a period for reply of two months from the mailing date of the Notice to submit the $770 statutory basic filing fee, the $130 surcharge for its late filing, an executed oath or declaration, and additional claims fees in the amount of $1156 ($688 for 8 independent claims over 3, $468 for 26 total claims over 20). The total fees due was $2,056. Applicants were notified that if appropriate, they could file a written assertion of small entity status and pay the small entity fees.

On September 28, 2004, applicants filed a declaration, a one month extension of time, and included a fee payment in the amount of $1436. Applicants did not included a written assertion of small entity status. Accordingly, the $1436 submitted was properly applied towards the fees, including the extension of time, as a non-small entity.[1] As $1436 was not sufficient to cover the fees due as a non-small entity, the Office mailed a Notice of Incomplete Reply on October 22, 2004, informing applicants of the deficiency and that the period for reply would remain as set forth in the Notice to File Missing Parts. No further fees with an appropriate extension of time having been received, the application became abandoned on September 28, 2004. Effective December 8, 2004, the fees for independent claims in excess of three were increased to $200 ($100 for a small entity). Applicants filed an amendment cancelling claims (18 total claims, with 6 independent claims), a written assertion of small entity status, and a two month extension of time in the small entity amount ($225) on September 26, 2005. A Notice of Abandonment was mailed on October 6, 2005.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. However, the proper additional claims fees still have not been paid. The application as currently filed contains 3 independent claims in excess of three. The small entity fee for 3 independent claims in excess of three is currently $300. Applicants have paid an extra $254 in the application (the extra $29 submitted on September 28, 2004 that was not applied towards any fees due, and the $225 fee for the extension of time submitted on September 26, 2005, after the application had already gone abandoned). Accordingly, on renewed petition, applicants must submit the balance of $46 to cover the 3 independent claims in excess of three (or an amendment cancelling one of the independent claims in excess of three).

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

---

[1] $770 basic filing fee, $130 late surcharge, $110 one month extension of time, and $201 for the additional claims, which the Office applied $172 for 2 independent claims in excess of three, with $29 left over.

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

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AUSTIN TX 78701

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In re Application of	:	
Fort, et al.	:	DECISION ON PETITION
Application No. 10/827,104	:	
Filed: April 19, 2004	:	
Attorney Docket No. FOCH:002US	:	

This is a decision on the renewed petition to revive pursuant to 37 CFR 1.137(b), filed February 27, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed June 28, 2004. This Notice set a period for reply of two months from the mailing date of the Notice to submit the $770 statutory basic filing fee, the $130 surcharge for its late filing, an executed oath or declaration, and additional claims fees in the amount of $1156 ($688 for 8 independent claims over 3, $468 for 26 total claims over 20). The total fees due was $2,056. Applicants were notified that if appropriate, they could file a written assertion of small entity status and pay the small entity fees.

On September 28, 2004, applicants filed a declaration, a one month extension of time, and included a fee payment in the amount of $1436. Applicants did not included a written assertion of small entity status. Accordingly, the $1436 submitted was properly applied towards the fees, including the extension of time, as a non-small entity.[1] As

[1] $770 basic filing fee, $130 late surcharge, $110 one month extension of time, and $201 for the additional claims, which the Office applied $172 for 2 independent claims in excess of three, with $29 left over.

$1436 was not sufficient to cover the fees due as a non-small entity, the Office mailed a Notice of Incomplete Reply on October 22, 2004, informing applicants of the deficiency and that the period for reply would remain as set forth in the Notice to File Missing Parts. No further fees with an appropriate extension of time having been received, the application became abandoned on September 28, 2004. Effective December 8, 2004, the fees for independent claims in excess of three were increased to $200 ($100 for a small entity). Applicants filed an amendment cancelling claims (18 total claims, with 6 independent claims), a written assertion of small entity status, and a two month extension of time in the small entity amount ($225) on September 26, 2005. A Notice of Abandonment was mailed on October 6, 2005.

On November 30, 2005, applicant filed a 137(b) petition, paid the petition fee and made the proper statement of unintentional delay. However, the proper additional claims fees were not paid. The application as currently filed contains 3 independent claims in excess of three. The small entity fee for 3 independent claims in excess of three is currently $300. Applicants paid an extra $254 in the application (the extra $29 submitted on September 28, 2004 that was not applied towards any fees due, and the $225 fee for the extension of time submitted on September 26, 2005, after the application had already gone abandoned).
Accordingly, the petition was dismissed in a decision mailed on January 3, 2006. Applicant was instructed that on renewed petition he must submit the balance of $46 to cover the 3 independent claims in excess of three (or an amendment cancelling one of the independent claims in excess of three).

With the instant renewed petition, petitioner has submitted the balance due. The other requirements for a grantable petition were previously satisfied on November 30, 2005.

The application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

FORT, Justin L. et al.
Application No. 10/827,104
Filed: April 19, 2004
Attorney Docket No. **FOCH:002US / 10404324**

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 18, 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, (transfer of files back to client), do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JUSTIN L. FORT AND CHARLES L. FORT**
16721 MARSALA SPRINGS DRIVE
ROUND ROCK, TEXAS 78681

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

COPY MAILED

AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	
FORT, Justin L. et al.	
Application No. 10/827,104	DECISION ON PETITION
Filed: April 19, 2004	TO WITHDRAW
Attorney Docket No. **FOCH:002US / 10404324**	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2007.

The request is **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 L. Highlander on behalf of all attorneys of record who are associated with customer No. 32425. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Justin L. Fort at the address indicated below.

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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JUSTIN L. FORT AND CHARLES P. FORT**
16721 MARSALA SPRINGS DRIVE
ROUND ROCK, TEXAS 78681

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/827,104	04/19/2004	Justin L. Fort	FOCH:002US / 10404324

CONFIRMATION NO. 1477

OC000000025371315

Michael C. Barrett, Esq.
FULBRIGHT & JAWORSKI, L.L.P.
Suite 2400
600 Congress Avenue
Ausitn, TX 78701

Date Mailed: 08/15/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2007.

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

Michelle R. Cooper

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

FORMER ATTORNEY/AGENT COPY

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DIW Feb-10

ZAGORIN O'BRIEN GRAHAM LLP
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN TX 78731

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Application of Lagmanson et al. Application Number: 10/827104 Filing Date: 04/19/2004 Attorney Docket Number: 121-0003	: : : : :	ON PETITION

This is a decision in reference to the "AMENDMENT, PETITION AND FEE TO CORRECT INVENTORSHIP (37 C.F.R. § 1.48(a)) including PETITION UNDER 37 C.F.R. § 1.47(A) submitted AFTER ALLOWANCE (37 C.F.R. § 1.312)," filed on November 12, 2009, which are treated as (a) a petition under 37 CFR 1.48(a)(1) requesting persons be added as named inventors, and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that the named inventors execute a supplemental declaration.

The petition is **GRANTED**.

On April 19, 2004, the above-identified application was filed. On September 28, 2004, a declaration was filed naming Justin L. Fort and Charles P. Fort as joint inventors.

On November 12, 2009, the subject petition was filed. Petitioners request that Mats Lagmanson, Liz Lagmanson, Markus Lagmanson, and Bo Berglund be added as named inventors under 37 CFR 1.48(a). Further, petitioners request waiver under 37 CFR 1.183 of 1.64 in that the two named inventors, Justin L. Fort and Charles P. Fort, refuse to execute the supplemental declaration naming them as joint inventors along with the persons sought to be added as inventors.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioners have provided statements of lack of deceptive intent signed by each of the persons sought to be added as an inventor, as well as an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. Written consent of the assignee has also been provided, along with processing fee set forth in 37 CFR 1.17(i).

As such, the petition under 37 CFR 1.48 is granted. The named inventive entity is amended by the addition of Mats Lagmanson, Liz Lagmanson, Markus Lagmanson, and Bo Berglund as named inventors.

Petition Under 37 CFR 1.183 to waive 1.64.

Petitioners assert that inventors Justin L. Fort and Charles P. Fort have refused to sign the declaration naming them and Mats Lagmanson, Liz Lagmanson, Markus Lagmanson, and Bo Berglund as joint inventors.

There is no requirement for a showing under 37 CFR 1.47 with regard to joint inventor Justin L. Fort and Charles P. Fort. As noted above, this application bears an original Declaration executed by joint inventors Justin L. Fort and Charles P. Fort, and thus, the provisions of 37 CFR 1.47 do not apply with regard to their signatures. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

In view of the efforts recounted in the petition to obtain the signature of Justin L. Fort and Charles P. Fort, it is agreed that justice would be served by waiving the requirement for their signatures on the supplemental declaration filed on November 12, 2009.

The inventorship will be as stated in the attached corrected filing receipt.

The fee for a petition under 37 CFR 1.183 is $400.00. The balance due of $200.00 will be charged to counsel's deposit account as authorized in the subject petition.

The application is referred to Technology Center Art Unit 2863 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/827,104	04/19/2004	2863	1447	121-0003	18	5

CONFIRMATION NO. 1477

CORRECTED FILING RECEIPT

22120
ZAGORIN O'BRIEN GRAHAM LLP
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN, TX 78731

OC000000040252381

Date Mailed: 02/25/2010

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

Applicant(s)

Mats Lagmanson, Austin, TX;
Liz Lagmanson, Austin, TX;
Markus Lagmanson, Austin, TX;
Bo Berglund, Jarfalla, SWEDEN;
Charles P. Fort, Round Rock, TX;
Justin L. Fort, Round Rock, TX;

Power of Attorney: The patent practitioners associated with Customer Number 22120

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/463,499 04/18/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/827,104**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

TECHNIQUES FOR SURFACE EXPLORATION AND MONITORING

Preliminary Class

702

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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Technology Center 2100

Huffman Law Group, PC
1832 North Cascade Ave
Colorado Springs, CO 80907-7449

In re Application of: Pettey, et al.
Application No. 10/827,117
Filed: 19 April 2004
For: SWITCHING APPARATUS AND METHOD FOR PROVIDING SHARED I/O WITHIN A LOAD-STORE FABRIC

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

This is a decision on the petition filed 21 October 2004, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

(b) Presents all claims 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 21 October 2004 fails to adequately meet requirements (c) and (e) as set forth supra.

Responsive to requirement (c), applicant must submit a statement that a search was made with respect to the claims of the Application for which special status is requested. Specifically, the "pre-examination search must be directed to the invention as claimed in the application for which special status is requested." Applicant's petition, however, states in paragraph (c), "A copy of the search report .... is attached hereto. The search report references docket number Nextio.0301. Docket number Nextio.0402 (the instant application), contains a similar specification, **differing in aspects of the disclosed invention which is claimed**". (emphasis added). Petitioner is required to make a search that is directed to the features claimed in the instant Application and provide a statement of this fact.

Pursuant to requirement (e), applicant must 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." 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 pursuant to requirement (d) supra.

Applicant's petition fails to discuss the claimed limitations with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not point out specific limitations in claims 1, 12 and 22 (each of the independent claims) that may distinguish the invention over the references. Petitioner is required to specify and juxtapose the patentable subject matter from the claims in a comprehensive correlation with each of the cited references. Pursuant to section (e) supra, the "detailed discussion" must include identifying claim limitations with particularity for each independent-claim that cannot be found in the relevant prior art references.

The petition also neglects to discuss all of the references "deemed most closely related to the subject matter encompassed by the claims", and submitted in connection with section (d) supra. Petitioner refers to a search report that contains fourteen (14) references having relevancy under section (d), however, the discussion only deals with three (3) of the 14 cited references. Petitioner simply sweeps past the remaining references with a statement that "[n]othing in the . . . other patents disclosed in the search report teach . . ." certain limitations in claims 1, 12 and 22. The petition is required to provide a "detailed discussion" of all the references submitted in section (d) to fully satisfy the criteria set forth by requirements (d) and (e) supra.

In the discussion of how the claims are patentable over the references, the petition must show, for each independent-claim, specific limitations that distinguish over each reference submitted under section (d) 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
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

7/18/05

GO

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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Benjamin et al. :
Application No. 10/827,135 :
Filed: April 19, 2004 :
Attorney Docket No. 200309237-1 :

DECISION ON PETITION

This is a decision on the petition filed August 16, 2004, requesting that the above-identified application be accorded a filing date of April 19, 2004, with Figure 11 described in the specification as part of the original disclosure.

On April 19, 2004, applicants filed the above-identified application. On July 30, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of April 19, 2004, and advising applicants that Figure 11 appeared to have been omitted.

In response, on August 16, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 9 sheets of drawings on April 19, 2004. Additionally, applicants submitted 9 sheets of drawings, including Figure 11.

Upon review of the record, Figure 11, deposited on April 19, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 19, 2004, included Figure 11, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 11, was complete on filing and will be granted a filing date of April 19, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 08-2025.

The Office of Initial Patent Examination is directed to accorded the above-identified application a filing date of **April 19, 2004**, using Figures 1-10 submitted on that date and Figure 11 submitted on August 16, 2004.

Telephone inquiries specific to this matter 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

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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
10/827,138	04/19/2004	2851	856	P2176US	10	19	4

CONFIRMATION NO. 2306

CORRECTED FILING RECEIPT

OC000000015825997

08968
GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Date Mailed: 04/22/2005

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)

Jin-gi Lee, Changwon-si, KOREA, REPUBLIC OF;
Jae-chung Lim, Masan-si, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Samsung Techwin Co., Ltd., Changwon-city, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number **08968**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-35898 06/04/2003
REPUBLIC OF KOREA 2003-37130 06/10/2003

If Required, Foreign Filing License Granted: 06/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/827,138

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF PHOTOGRAPHING BY VARYING FLASH TRIGGER TIME AND CAMERA ADOPTING THE SAME

Preliminary Class

396

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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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Takako Takasu et al	:	
Application No. 10/827,144	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. 0553-0407	:	

This is a decision on the petition, filed April 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 February 9, 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 2879 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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RIMAS LUKAS
530 JACKSON ST
2ND FLOOR
SAN FRANCISCO CA 94133

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OFFICE OF PETITIONS

In re Application of	
Baer, et al.	
Application No. 10/827,151	DECISION ON PETITION
Filed: April 19, 2004	TO WITHDRAW
Attorney Docket No. ARC01-20012.01	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 20, 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 client asked to transfer files at the request of the assignee. The 3.73(b) statement that was submitted with the power of attorney on September 14, 2004 does not contain a proper chain of title information nor does it contain the reel and frame 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY F. BLISS
HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TEXAS 75202-3789

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OFFICE OF PETITIONS

In re Application of	:	
VEMPATI, BRAHMANANDA et al	:	
Application No. 10/827,154	:	DECISION ON PETITION
Filed: April 9, 2004	:	TO WITHDRAW
Attorney Docket No. 139374USNP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2005.

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

A review of the file record indicates that the power of attorney to customer number 27683 has been revoked by the assignee of the patent application on August 2, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: David Carroll Challener	: DECISION ON REQUEST FOR
Patent Number	: 7587765	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1544** 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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John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Littrell :
Application No. 10/827,201 :
Filed: April 19, 2004 :
Attorney Docket No. 145512 :

This is a decision on the petition filed October 8, 2004, which is being treated as a petition under 37 CFR 1.10, to accord the above-identified application a filing date of April 19, 2004, instead of April 13, 2004.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Since a copy of an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Petitioner has provided a Track and Confirm Statement from the USPS which indicates the application was accepted by the USPS at 4:47 pm on April 19, 2004. Therefore, the petition is **granted**. In the future, petitioner should take steps to receive an express mail label with a clear date-in, and not rely solely on possible database results.[1] If the Office receives a label with an omitted or illegible date-in, the Office will give the application a filing date of the date the package is received, unless a petition is filed. A petition involves additional work by petitioner and the Office, and also delays prosecution of the application into a patent.

Since relief has been granted under 37 CFR 1.10, a petition fee has not been charged to petitioner's deposit account.

---

[1] Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application using a filing date of April 19, 2004.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington DC 20006-1600

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OFFICE OF PETITIONS

In re Application of	:	
Ronca et al.	:	
Application No. 10/827203	:	
Filing or 371(c) Date: 04/19/2004	:	ON PETITION
Attorney Docket Number:	:	
0307090.0123	:	

This is a decision in response to the petition to expunge part of original disclosure (M.P.E.P. § 724.05 IV, 37 C.F.R. § 1.183), filed October 5, 2007. The petition is properly treated as petitions under 37 CFR §§ 1.59 (to expunge), and 1.183 (requesting waiver of one of the requirements explicitey set forth in 37 CFR 1.59(a), to wit – requesting expungement of part of the roiginal disclosure). The delay in treating this petition is regretted.

This Petition under 37 C.F.R. § 1.59 is hereby **granted**.

This Petition under 37 C.F.R. § 1.183 is hereby **granted to the extent noted below.**

Petitioner asserts that the drawings as-filed with the application contain proprietary information and, as such, seeks replacement of the original drawings with a set of drawings filed September 28, 2007.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
>
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue[1];
> (B) it is stated 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;

[1] The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The image of the recorded document will be "closed" from view, but will remain in the records of the Office.

(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

In addition to the above requirements, a petition to expunge part of the original disclosure must include:

(1) a petition under 37 CFR 1.183, requesting waiver of the requirements of 37 CFR 1.59(a);
(2) a showing demonstrating that justice requires waiver of the rules to permit the requested material to be expunged, and
(3) the required petition fee (37 CFR 1.17(f).

The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Office. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

The Office will replace the originally-filed drawings with the drawings filed September 28, 2007.

Finally, the address given on the petition differs from the address of record. The application file does not indicate a change of address has been filed in this case,. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being referred to the Office of Patent Application Processing for correction of the PTO archival record.

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

Derek L. Woods
Attorney
Office of Petitions

CC: MOORE & VAN ALLEN, PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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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
10/827,207	04/16/2004	2612	385	110603-002 (APERIO02)	11	13	2

CONFIRMATION NO. 2334

UPDATED FILING RECEIPT

OC000000013807808

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Date Mailed: 09/15/2004

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)

Allen Olson, San Diego, CA;
Greg Crandall, San Diego, CA;
Dirk G. Soenksen, Carlsbad, CA;

Power of Attorney: The patent practitioners associated with Customer Number **27189**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/798,457 03/11/2004
and claims benefit of 60/463,909 04/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/28/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/827,207

Projected Publication Date: 12/23/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for pre-focus in a linear array based slide scanner

Preliminary Class

348

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

Technology Center 1700

Mailed: 7/14/05

meb
Paper Number: _____

In re application of
Chung-Ting Tseng

Serial No. 10/827,211
Filed: April 20, 2004
For: Hot Dog Frying Pan

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed May 16, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 2, 2005 for failure to timely respond to the Office Action mailed July 23, 2004, be withdrawn. The petitioner asserts that the Office Action mailed July 23, 2004 was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c) which states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. ** The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of

abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

The applicant has failed to provide the required evidence to establish nonreceipt of the Office action. Specifically, the applicant has not provided 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, and 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.

Therefore, the Notice of Abandonment is not withdrawn.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CHUNG-TING TSENG
P.O. BOX 24-108
TAIPEI, TAIWAN, R.O.C.

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Bruce B. Troxell
Troxell Law Office, PLLC
5205 Leesburg Pike--Suite1404
Falls Church VA 22041

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OFFICE OF PETITIONS

In re Application of
CHUNG-TING TSENG
Application No. 10/827,211
Filed: April 20, 2004
Attorney Docket No. 3105-33

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 24, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750 for a small entity; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 23, 2004 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 1761 for appropriate action.

Amelia Au
Petitions Examiner
Office of Petitions

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Ibrahim et al. :
Application No. 10/827,218 :
Filed: April 19, 2004 : ON PETITION
Attorney Docket Number: :
200314912-1 :

This decision is in response to the Petition to Change Name of Inventor Non-provisional Application, filed on September 29, 2004. The petition is properly treated under 37 CFR 1.182.

Applicant files the instant petition to change the name of inventor Manny Novoa to Manual Novoa. Applicant avers that the name Manny Novoa was originally listed in error[1]. Applicant has also filed a supplemental Application Data Sheet and Substitute Declaration with the correct name of the inventor.

In view of the error in transliteration or typing, the petition is granted.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] Applicant's petition cites to the OG Notice of 13 April 2004, which refers to transliteration or typographical errors. As such, this petition is construed as a petition to correct a transliteration or typographical error. If this construction is incorrect, Applicant must notify this Office immediately.

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RALPH A. DOWELL OF DOWELL & DOWELL PC
2111 EISENHOWER AVENUE
SUITE 406
ALEXANDRIA, VA 22314

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Mohiuddin Mala et al	:	
Application No. 10/827,252	:	DECISION GRANTING PETITION
Filed: April 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14682	:	

This is a decision on the petition, filed May 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 11, 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 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\827252.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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VIA MERAVIGLI, 16
20123 MILANO,
ITALY

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OFFICE OF PETITIONS

In re Application of	:
Dido Boni	:
Application No. 10/827,258	: DECISION GRANTING PETITION
Filed: April 20, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 27374	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005, 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 11, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed January 10, 2005. Accordingly, the date of abandonment of this application is April 12, 2005. A Notice of Abandonment was mailed on October 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the issue fee of $700 and the publication fee of $300; (2) the petition fee of $750; 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.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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BIRCH, STEWART, KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Marcus P.L. Huinck	:	
Application No. 10/827,290	:	DECISION ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 0142-0456P	:	

This is a decision on the petition filed October 13, 2004, requesting that the above-identified application be accorded a filing date of April 20, 2004.

The application was deposited on April 20, 2004. However, on June 30, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Application Nonprovisional Application", stating that the above-identified application was deposited without drawings, and stating that the filing date will be the date of receipt of the drawings. Additionally, the Notice required submission of an executed oath or declaration covering the omitted drawings.

In response, petitioner argues that the response filed August 30, 2004, was sufficient to explain the absence of drawings and that the application was perfected on September 21, 2004[1] with the filing of an executed Oath/Declaration and $130 surcharge. Petitioner also states that the reference to Figure 3 in the specification is a typographical error and that the above-identified application was deposited without drawings.

Based on the statements made in the instant petition, which is signed by a registered practitioner, it appears that the reference in the specification to Figure 3 is a typographical error and that no drawing containing Figure 3 was intended to be filed on April 20, 2004. In support, petitioner filed an amendment on September 20, 2004, cancelling the reference to Figure 3 in the specification, along with a postcard receipt stamped by the USPTO, which shows that the application was deposited without drawings on April 20, 2004.

---

[1]In order to make the response filed September 21, 2004 timely, petitioner submitted $110 for a one (1) month extension of time.

In view of the above, the petition is **granted.** However, since the application as filed described a Figure 3, and no drawing labeled Figure 3 was present on April 20, 2004, the application was prima facie incomplete. See MPEP 506 and 608.01(f). Thus, the petition and the petition fee of $130 are necessary to correct applicant's filing error. Therefore, the $130 petition fee has been charged to petitioner's deposit account, as authorized.

The Notice mailed September 21, 2004, is hereby withdrawn.

This application is being referred to Technology Center Art Unit 1755, to await applicants' response to the non-final Office action mailed October 20, 2004.

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

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

Brian Hearn
Petitions Examiner

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OFFICE OF PETITIONS

In re Application of
Saito, et al.
Application No. 10/827,323
Received April 20, 2004
Docket No.: 113539.01

: ON PETITION

This is a decision on the "PETITION UNDER 37 CFR § 1.53(e)(2) - THE APPLICATION WAS COMPLETE AS FILED ON OCTOBER 14, 2003," filed August 30, 2004, wherein petitioners request withdrawal of the Notice of Omitted Items; acknowledgement that Fig. 18 was received on April 20, 2004; and a filing date of April 20, 2004 with Figure 18 as part of the original disclosure.

The petition is **DISMISSED**.

The application was received by the USPTO on April 20, 2004. On June 30, 2004, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed indicating, *inter alia*, that the application had been accorded a filing date but that figure 18 appeared to have been omitted from the application as filed.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items 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 items in question 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 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 (37 CFR 1.181(f)).

Petitioners argue that the application as filed included figures 1-22 and has included as proof of mailing and proof of receipt a copy of an acknowledgement of receipt and postcard indicating that figures 1-22 were received in the Office.

The argument and evidence submitted by petitioners has been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Review of the official application reveals that, as indicated on the return postcard and acknowledgement of receipt, the Office did in fact receive twenty (20) sheets of drawings. Figure 18, however, does not appear on any of the drawing sheets received. Figures 1-13, 16-17, and 19-22 appear singly on separate drawing sheets (nineteen total drawing sheets). Figures 14(a), 14(b), and 15 appear on one single drawing sheet (one total drawing sheet). Hence, the Office received a total of twenty (20) sheets of drawings. Figure 18, however, was omitted.

Thus, the postcard and acknowledgement of receipt do not serve as prima facie evidence of receipt of Figure 18.

As the relief requested by petition has been dismissed, petitioners are advised that the instant application is being returned to the Office of Initial Patent Examination with a filing date of April 20, 2004 without entry of Fig. 18 as part of the disclosure. Petitioners are advised to promptly submit a preliminary amendment canceling reference to Fig. 18 prior to the issuance of the first Office action on the merits.

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. If petitioners desire to have Fig. 18 entered into the record, a petitioner for reconsideration requesting the later filing date of August 30, 2004 (date of submission of Fig. 18) and entry of Fig. 18 must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

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

By mail: **Mail Stop Petition**

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

By facsimile: (703) 872-9306

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

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 20, 2004 without entry of Fig. 18.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Saito, et al. : ON PETITION
Application No. 10/827,323 :
Received April 20, 2004 :
Docket No.: 113539.01 :

This is a decision on the "PETITION UNDER 37 CFR § 1.53(e)(2)" filed October 28, 2004. This petition is being treated as a request for reconsideration on the merits of the decision on petition mailed October 1, 2004.

The application was received by the USPTO on April 20, 2004. On June 30, 2004, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed indicating, *inter alia*, that the application had been accorded a filing date but that figure 18 appeared to have been omitted from the application as filed.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items 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 items in question 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 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 (37 CFR 1.181(f)).

In response to the Notice, a petition was filed October 14, 2003 requesting withdrawal of the Notice; acknowledgement that Fig. 18 was received on April 20, 2004; and a filing date of April 20, 2004 with Figure 18 as part of the original disclosure.

A decision on the petition was mailed October 1, 2004 and is hereby incorporated by reference[1].

In the instant request for reconsideration, petitioners argue that figure 18 should be entered into the application on the grounds that figure 18 is question is part of the disclosure of U.S. App. No. 10/226,305.

Whereas petitioners previously argued that a postcard established *prima facie* receipt of the figure in question, petitions are now arguing that based on the theory of incorporation by reference, figure 18 should be entered into the record and the application be accorded a filing date of April 20, 2004.

It is noted that the first page of the specification of the instant application contains an incorporation statement. An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), **without** the need for a petition, provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Based on petitioner's representation that figure 18 is part of the disclosure of application No. 10/226,305 and the entire disclosure of application No. 10/226,305 was specifically incorporated by reference into the present application on April 20, 2004, it appears that figures 18 was present in the Office on April 20, 2004, albeit in the file of another application, i.e., application No. 10/226,305. Petitioner therefore may be accorded the requested filing date.

Figure 18, however, will not be entered into the record by the instant petition because as indicated herein, a petition is not necessary for this purpose.

---

[1] Petition dismissed as to entry of the drawing figure in question; petition granted as to accordance of a filing date of April 20, 2004.

If deemed appropriate, petitioners are advised to promptly submit a preliminary amendment requesting entry of the omitted figure prior to the issuance of the first Office action on the merits.

A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1).

The required petition fee of $130.00 will not be refunded since the petition was necessary to correct petitioner's filing error.

In view of the above, the petition is **DISMISSED**.

As no further action by the Office of Petitions is deemed necessary at this time, this application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 20, 2004 using the papers present on that day and without entry of Fig. 18.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Seiki MORITA
Application No. 10/827,325
Filed: April 20, 2004
For: ANOMALY NOTIFICATION CONTROL
IN DISK ARRAY

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on August 29, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 29, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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OFFICE OF PETITIONS

In re Application of	:	
Shiv Kumar Agarwal et al	:	DECISION DISMISSING
Application No. 10/827,368	:	PETITION UNDER
Filed: April 20, 2004	:	37 CFR 1.55(c)
Attorney Docket No. 115683.01	:	

This is a decision on the petition, filed August 30, 2004, under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of the following foreign application: Indian Application No. 266/MAS/2002, filed October 4, 2002.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge of $1,330.00, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on April 20, 2004, which is after November 29, 2000, and did not include a reference to the foreign applications, 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 applications. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is

an appropriate petition under the provisions of 37 CFR 1.55(c).

The petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) - (d) is **dismissed**. The petition lacks item (2).

A review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 37 CFR 1.63 requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-87 (Rev. 1, Feb. 2003), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63 must be satisfied if applicant desires to claim priority to the foreign applications noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)" and should be submitted within two months from the mail date of this decision. *Note* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Window located at:
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220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any inquiries pertaining to this matter may be directed to Wan Laymon at (703) 306-5685.[1]

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

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OFFICE OF PETITIONS

In re Application of	:	
Shiv Kumar Agarwal et al	:	DECISION DISMISSING
Application No. 10/827,368	:	PETITION UNDER
Filed: April 20, 2004	:	37 CFR 1.55(c)
Attorney Docket No. 115683.01	:	

This is a decision on the renewed petition, filed November 5, 2004, under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of the following foreign application: Indian Application No. 266/MAS/2002, filed October 4, 2002.

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 of $1,330.00, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on April 20, 2004, which is after November 29, 2000, and did not include a reference to the foreign applications, 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 applications. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) - (d) is **dismissed**. The petition lacks item (2).

As to item (2), although the petition indicates that a substitute Application Data Sheet is being filed therewith, the record fails to show receipt thereof. Unless provided in an application data sheet, 37 CFR 1.63 requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-77 (Rev. 2, Feb. 2004), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63 must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)" and should be submitted within two months from the mail date of this decision. *Note* 37 CFR 1.181(f).

The Office acknowledges the priority document received on August 30, 2004.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any inquiries pertaining to this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Shiv Kumar Agarwal et al
Application No. 10/827,368
Filed: April 20, 2004
Attorney Docket No. 115683.01

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed February 2, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of the following foreign application: Indian Application No. 266/MAS/2002, filed October 4, 2002.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not

include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on April 20, 2004, which is after November 29, 2000. On February 2, 2005, a supplemental ADS was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330.00 was received on August 30, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

This matter is being referred to Technology Center AU 1624 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 Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Bell	:	
Application No. 10/827,417	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 4480-65	:	

This is a decision in response to the letter filed July 14, 2004, which is being treated as a petition requesting entry of Figure 2 submitted on July 14, 2004.

The petition is **dismissed**.

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.

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 provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. . . .
>
> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If petitioner desires for the examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The pages submitted with the petition will not be entered. Should petitioner wish for the pages to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 20, 2004, using only the application papers filed on April 20, 2004.

Telephone inquiries 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

Paper No.: _____

DATE : October 19, 2007

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No./10/827428 patent no.7261814

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

DUANE SMITH
SUPERVISORY PATENT EXAMINER

THOMAS Lithgow
primary Exr
1797

SPE

1797
Art Unit

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DIRECTORS OFFICE
APR 2 5 2007
TECHNOLOGY CENTER 2800

Eric Robinson
PBM 955
21010 Southbank Street
Potomac Falls, VA 20165

In re Application of: Tanaka et. Al.
Attorney Docket Number: 0756-7293
Application No. 10/827449
Filed: April 20, 2004

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and the Notice of Allowability mailed December 15, 2006 are hereby vacated. The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Rodney Bovernick at (571) 272-2344.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Nien-Hua Pai	: DECISION ON REQUEST FOR
Patent Number	: 7589870	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,483	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1549** 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.:20100512

DATE : May 12, 2010

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/ANDREW WANG/
Supervisory Patent Examiner.Art Unit 1652

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Friederichet al.	:	DECISION ON
Application No.: 10/827,499	:	
Filing Date: April 19, 2004	:	PETITION UNDER
Docket No.: 00635.0371-US-01	:	
For: Screw Element With A Spring	:	37 CFR 1.137(b)
Element Formed Thereon	:	

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 8, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed November 1, 2005, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on May 1, 2006. A Notice of Abandonment was mailed on July 5, 2006.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a response including an amendment, paid the petition fee, and made the statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 3677 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,055,795 B2

APPLICATION NO.: 10/827,500

ISSUE DATE : 6 June 2006

INVENTOR(S) : Stuart M. Lay

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In claim 6 at column 11, line 2, delete "sliding" and insert --co-operating--.

In claim 7 at column 11, line 15, delete "sliding" and insert --co-operating--.

In claim 17 at column 12, line 13, delete "claim 15" and insert --claim18--.

DO NOT ENTER: /JKF/ 05/15/2008

Changes the scope of the claims

/JKF/ 05/15/2008

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Bradley N. Ruben, PC
463 First Street, Suite 5A,
Hoboken, NJ 07030

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : October 30, 2009

Patent No. :7055795
Inventor :10/827500
Patent Issued :June 6, 2006
Title :DRIVE MECHANISMS FOR VALVE ACTUATORS

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.

Inspection of the application for the patent reveals that in connection with the alleged errors pertaining to the the claims 6, 7 and 17 as referenced in applicants request; the requested changes as presented changes the scope of the claims. Accordingly, it is determined the Letters Patent with regard to applicants request is printed in accordance with the records within the Patent and Trademark and therefore is not warranted entry under 37 CFR 1.322 and 37 CFR 1.323.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Bradley N. Ruben, PC
463 First Street, Ste 5A
Hoboken, NJ 07030

/arg

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Paper No. None

Michael Skrehot
Texas Instruments Incorporated
PO Box 655474, M/S 3999
Dallas TX 75265

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SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of
Anthony A. Barretto et al.
Application No. 10/827,557
Filed: April 20, 2004
Attorney Docket No. 33631.1
Title: SUBSTRATE ALIGNMENT METHOD AND APPARATUS

DECISION ON PETITION

This is a decision on the "Petition to Accept Allegedly Missing Parts," filed July 19, 2004, requesting that the above-identified application be accorded a filing date of April 20, 2004, with pages 2, 4, and 17 of the specification as part of the original disclosure of the application.

The application was deposited on April 20, 2004. However, on June 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without pages 2, 4, and 17 of the specification. The notice set a two-month period for response.

On July 19, 2004, the instant petition was filed, along with pages 2, 4, and 17 of the specification, as well as a copy of the notice. No declaration attesting that these pages are the same as those which were in the parent application has been provided. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner contends that these three (3) pages were constructively included on filing, 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 preliminary amendment to the specification indicates that the instant application is a divisional of application 10/066,295, 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 20, 2004. However, the 3 pages of specification submitted with the instant petition will not be entered. If petitioner desires for the examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit these pages via an amendment. Any such amendment will, of course, be 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 20, 2004, using only the application papers filed on that date.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 See MPEP 608.02(a).

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of Disalvo et al. :
Application No. 10/827,569 :
Filing Date: April 16, 2004 :
Attorney Docket No. PPC-813 DIV :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed August 25, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on March 9, 2006.

A proper reply to a final rejection consists only of:

(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

The proposed amendment filed with the petition was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raised new issues requiring further search or consideration. Specifically, the examiner determined the proposed amendment raises new issues that would require further consideration and/or search. For example, the examiner noted, "the addition of the limitation requiring the absorbent body to form an intravaginal tampon and requiring a vibration to be felt by a user in conjunction with the previously claimed limitations will require further searching and consideration."

Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action mailed on August 25, 2005.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of

Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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NEW BRUNSWICK, NJ 08933-7003

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Raymond J. Hull Jr. et al	:	
Application No. 10/827,574	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. PPC-668 DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 1, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1734.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Brooks & Cameron, PLLC
Suite 500
1221 Nicollet Avenue
Minneapolis MN 55403

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
BRAATEN :
Application No. 10/827,588 :
Filed: April 19, 2004 :
Attorney Docket No. 119.0010001 :

DECISION
ON PETITION

This is a decision on the petition filed April 27, 2006 under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 8, 2005, which set a period for reply of three (3) months. Accordingly, the application became abandoned on March 9, 2006.

Petitioner asserts that a revised drawing was sent to the Office through e-mail on November 30, 2005 and discussed with examiner telephonically on November 30, 2005. Petitioner also states that it was "Applicant's belief that the drawings submitted met the drawing requirements . . . and that the Examiner would submit the drawings as provided in the November 30, 2005 e-mail." Petitioner further relates that the Examiner approved the drawing corrections in the Notice of Allowability and that "Applicant believed this to indicate an acceptance of the Replacement Sheet that was submitted and, therefore, did not re-submit another sheet." Petitioner contends "there was a miscommunication with the Examiner which led Applicant to believe that the corrected drawing in dispute had in fact been accepted."

Petitioner's arguments are not found persuasive. The actions of the Office are based exclusively on the written record, and no attention will be paid to any alleged oral promise or understanding in relation to which there is disagreement. See 37 CFR 1.2. The Notice of Allowability cover sheet of the above-identified application indicates that corrected drawings must be submitted, including the changes required by the Examiner's Amendment. This cover sheet also states:

> 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.

The corrected drawing requirement was one of the requirements noted below the above-quoted statement, giving Applicant three months from the mailing date of the Notice of Allowability to respond.

Additionally, paragraph 2 (page 6) of the Examiner's Amendment states, "[i]n order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes." Thus, twice within the Notice of Allowability, the Office gave Applicant notice to submit corrected drawings in order to avoid abandonment. Yet, within the three-month time period set, Applicant chose not to file corrected drawings or to respond to the requirement with an argument that corrected drawings were not necessary. Instead, based on Applicant's understanding, no papers were submitted.

As noted in Brenner v. Ebbert, 398 F.2d. 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), *cert. den.*, 159 USPQ 799:

> [t]he Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

Petitioner admittedly received the notice that corrected drawings were due, but mistakenly and based on a misunderstanding, chose not to submit any papers within the three-month period set. Since no response was filed, the application automatically went abandoned by operation of law. Furthermore, because the required corrected drawings were not submitted within three months of the mailing of the Notice of Allowability, the record does not support the withdrawal of the holding of abandonment under 37 CFR 1.181.

Petitioner should consider filing a petition stating that the delay was unintentional. 35 U.S.C. § 41(a)(7) provides for the revival of an "unintentionally" abandoned application. This has also been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1500 ($750 for small entity) petition fee. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). Applicant can file a petition to revive the application pursuant to 37 CFR 1.137(b). See Form PTO/SB/64.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Brooks & Cameron, PLLC
Suite 500
1221 Nicollet Avenue
Minneapolis MN 55403

In re Application of
BRAATEN
Application No. 10/827,588
Filed: April 19, 2004
Attorney Docket No. 119.0010001

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 8, 2005, which set a period for reply of three (3) months. Accordingly, the application became abandoned on March 9, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of approved formal drawings; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the formal drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is referred to the Office of Patent Publication.

Denise Pothier
Petitions Examiner
Office of Petitions

enc: Notice of Draftsperson's Patent Drawing Review (Form PTO-948)

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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OFFICE OF PETITIONS

Paper No.

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of Roche et al. Application No. 10/827,598 Filed: April 19, 2004 Attorney Docket Number: 047177-9109-02 Title: MERCHANDISERS HAVING ANTI-FOG COATINGS AND METHODS FOR MAKING THE SAME	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition filed August 24, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

On February 9, 2009, a Pre-Appeal Brief Request for Review was filed along with a Notice of Appeal. On March 30, 2009, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, indicating that the application remained under appeal. The notice indicated that a response was due by April 30, 2009, and that extensions of time were available. No response was received, and no extension of time was requested. As such, this application went abandoned on May 1, 2009. A notice of abandonment was mailed on August 19, 2009.

With the present petition, Petitioner has requested that the holding of abandonment be withdrawn.

It is noted that an extension of time is still available, and as such, Applicant is in a position to purchase an extension of time. It is further noted that neither a response nor an extension of time was included with this petition.

The petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 3635 will be made aware of this decision. **If the appropriate response and a five-month extension of time are not received by September 30, 2009, the Technology Center will mail a notice of abandonment.**

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:
Grainger, et al.	:
Application No. 10/827,602	: DECISION ON PETITION
Filed: April 19, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 36071-A-I-I 074973.0138	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 23, 2005 (certificate of mailing date May 19, 2005), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the

amendment is not acceptable as drafted since it improperly incorporates by reference **all** prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement with respect to newly added application no. 10/170,971, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[1] *Note* 37 CFR 1.121

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:
David J. Grainger et al	:
Application No. 10/827,602	: DECISION GRANTING PETITION
Filed: April 19, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 074973.0138	:

This is a decision on the petition, filed January 12, 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 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) 272-3218.

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 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

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Oct-06

MALCOLM K. LIM
109 BERNARD DR.
BUFFALO GROVE IL 60089

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OCT 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Malcolm K. Lim	:	DECISION ON PETITION
Application No. 10/827,613	:	
Filed: 20 April, 2004	:	
For: PAVEMENT CRACK INITIATOR	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 26 July, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 17 June, 2006, for failure to timely file a proper reply to the final Office action mailed on 16 December, 2005, which set a three (3) month shortened statutory period for reply. On 20 April, 2006, an amendment after final rejection was filed. Accordingly, on 10 May, 2006, a Notice Requiring Extension of Time Fee—No New Time period is Provided was mailed, stating that the response received on 20 April, 2006, was after the expiration of the period for reply, and that the application would become abandoned unless applicant obtains an extension of time under 37 CFR 1.136(a).[2] An extension of time was filed on 30 May, 2006.[3] An Advisory Action was mailed on 26 June, 2006, stating that the reply did not place the application in condition for allowance. Notice of Abandonment was mailed on 29 June, 2006.

The petition lacks the reply required by 37 CFR 1.137(b)(1). Petitioner states the reply was an amendment filed on "December 13, 04." The required reply, however, must be in response to the Office action mailed on 16 December, 2005.

Furthermore, 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.

As such, any renewed petition must be accompanied by a proper reply as described above.

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

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[2] The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purpose of determining the period of extension and the corresponding amount of the fee due.

[3] Although a three (3) month extension of time was required for a timely response on 30 May, 2006, the Advisory Action stated that the period for reply expires six (6) months from the mailing date of the final rejection.

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Mar-07

MALCOLM K. LIM
109 BERNARD DR.
BUFFALO GROVE IL 60089

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OFFICE OF PETITIONS

In re Application of	:	
Malcolm K. Lim	:	DECISION ON PETITION
Application No. 10/827,613	:	
Filed: 20 April, 2004	:	
For: PAVEMENT CRACK INITIATOR	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 27 November, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 17 June, 2006, for failure to timely file a proper reply to the final Office action mailed on 16 December, 2005, which set a three (3) month shortened statutory period for reply. On 20 April, 2006, an amendment after final rejection was filed. Accordingly, on 10 May, 2006, a Notice Requiring Extension of Time Fee—No New Time period is

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Provided was mailed, stating that the response received on 20 April, 2006, was after the expiration of the period for reply, and that the application would become abandoned unless applicant obtains an extension of time under 37 CFR 1.136(a).[2] An extension of time was filed on 30 May, 2006.[3] An Advisory Action was mailed on 26 June, 2006, stating that the reply did not place the application in condition for allowance. Notice of Abandonment was mailed on 29 June, 2006. The petition filed on 26 July, 2006, was dismissed on 17 December, 2006.

As the examiner has stated that the amendment filed on 26 July, 2006, is a proper reply to the final Office action, the petition may be favorably considered.

The application is being referred to Technology Center 3671 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

[2] The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purpose of determining the period of extension and the corresponding amount of the fee due.

[3] Although a three (3) month extension of time was required for a timely response on 30 May, 2006, the Advisory Action stated that the period for reply expires six (6) months from the mailing date of the final rejection.

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AUG 29 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

In re Application of
PETTEY, CHRISTOPHER J., et al.
Application No. 10/827,620
Filed: April 19, 2004
For: **SWITCHING APPARATUS AND METHOD FOR PROVIDING SHARED I/O WITHIN A LOAD-STORE FABRIC**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 21, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

In re Application of
Christopher PETTEY, et al.
Application No. 10/827,622
Filed: April 19, 2004
For: **SWITCHING APPARATUS AND METHOD FOR PROVIDING SHARED I/O WITHIN A LOAD-STORE FABRIC**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 21, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The 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.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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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OFFICE OF PETITIONS

ROBERT C. SHADDOX
P.O. BOX 50784
DALLAS TX 75201

In re Application of
Yildiz Bayaztoglu
Application No. 10/827,629
Filed: April 19, 2004
Attorney Docket No. 11321-P049US

ON PETITION

This is a decision in response to the petition, filed April 2, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 26, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 27, 2005. A Notice of Abandonment was mailed on March 28, 2006. On April 2, 2007, the present petition was filed.

The petition is found to satisfy the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the reply to the non-final Office Action of May 26, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1725 for consideration of the response filed April 2, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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	: Jeffrey Ahrens	: DECISION ON REQUEST FOR
Patent Number	: 7659448	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **161** 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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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OFFICE OF PETITIONS

In re Application of
Shelor
Application No. 10/827,662
Filed: April 19, 2004
Attorney Docket No. 252207-1090

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2008, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2007 . Accordingly, the date of abandonment of this application is December 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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c/o UNIT 33
2280 MUNN'S AVENUE EAST
OAKVILLE ON L6H 3L1 CA CANADA

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Beauchamp : DECISION ON PETITION
Application No. 10/827,678 :
Filed: April 20, 2004 :
For: 44 GG-03-US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2004 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed June 29, 2004. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 CFR 1.136 was timely submitted. Notice of Abandonment was mailed March 21, 2005.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

In accordance with 37 CFR 1.33, "amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application

must be signed by: (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under §3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter."

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by the inventor and the record herein fails to disclose that petitioner herein was ever given a power of attorney to act on behalf of the inventor, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

The address indicated on the instant petition differs from the correspondence address of record for the instant application. A courtesy copy of the instant decision is being mailed to the address indicated on the petition, but petitioner is advised that all future correspondence address regarding this application will be mailed to the correspondence address of record until such time as appropriate instruction and documentation is received to the contrary.

Any renewed petition must be properly executed by the inventor, established assignee, or attorney of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Dragonfire Group Holdings Limited
TrustNet Chambers, P.O.Box 3444, Road Town,
Tortola, British Virgin Islands

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

In re Application of :
Beauchamp : DECISION ON PETITION
Application No. 10/827,678 :
Filed: April 20, 2004 :
Dkt. No.: 15645 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 8, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed June 29, 2004. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 CFR 1.136 was timely submitted. Notice of Abandonment was mailed March 21, 2005. A petition under 37 CFR 1.137(b) was filed October 27, 2006 and dismissed January 12, 2007.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Joseph B. Agusta
Priest & Goldstein, PLLC
5015 Southpark Drive, Suite 230
Durham, NC 27713-7736

Mail Date: 04/23/2010

Applicant	: Gerald George Pechanek	: DECISION ON REQUEST FOR
Patent Number	: RE40883	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,697	: OF WYETH
Filed	: 04/19/2004	:
		:

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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INDEL, INC.
PO BOX 157
RANCOCAS NJ 08073

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of
Vitaly A. Peysakhovich et al.
Application No. 10/827,700
Filed: April 20, 2004
Attorney Docket No. 1946-013US

ON PETITION

This is a decision on the petition filed July 5, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned May 18, 2005 for failure to timely pay the issue fee on or before May 17, 2005. The petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee and petition fee, in accordance with 37 CFR 1.18, has been charged to deposit account no. 50-2435 as per your authorization. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/25/2010

Applicant	: Joyce Rosenthal	: DECISION ON REQUEST FOR
Patent Number	: 7668328	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/827,706	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1217** 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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EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER, LT
STE. 2850
200 WEST ADAMS ST.
CHICAGO, IL 60606

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 10/827,709 : ON PETITION
Filed: April 20, 2004 :
Attorney Docket No. 0553-0277.01 :

This is a decision on the petition, filed April 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2879 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : April 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) : Shunpei Yamazaki, et al
Application No. : 10/827,709
Filed : April 20, 2004

The above-identified application has been assigned Patent No. 6,882,107 and an issue date of April 19, 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 April 19, 2005:

> "All reference to Patent No. 6,882,107 to SHUNPEI YAMAZAKI, ET AL of JAPAN for DISPLAY DEVICE AND METHOD OF FABRICATING THE DISPLAY DEVICE appearing in the Official Gazette of April 19, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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CUMMINGS & MEHLER, LTD.
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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/827,709 : ON PETITION
Filed: April 20, 2004 :
Attorney Docket No. 0553-0277.01

This is a decision on the petition filed, March 22, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2879 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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CUMMINGS & MEHLER, LTD.
SUITE 2850
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In re Patent No. 7,585,783	:
Nakamura et al.	: DECISION ON REQUEST FOR
Issue Date: September 8, 2009	: RECONSIDERATION OF
Application No. 10/827,710	: PATENT TERM ADJUSTMENT
Filed: April 20, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 0553-0409	: TO ISSUE CERTIFICATE OF
Title: DROP DISCHARGE	: CORRECTION
APPARATUS, METHOD FOR FORMING	:
PATTERN AND METHOD FOR	:
MANUFACTURING SEMICONDUCTOR	:
DEVICE	:

This is a decision on the petition filed on November 5, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty (630) days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-1039. No additional fees are required.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period

begins on April 21, 2007 and ends on September 19, 2007, the day before the date that the RCE was filed, and, is 152 days. **See** 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 629, not 630 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred twenty-nine (629)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,783 B2

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Nakamura 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 477 days

Delete the phrase "by 477 days" and insert – by 629 days--

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JUL 2 2 2004

DCM

In re Application of	:	
John V. Kraft, et al.	:	
Serial Number: 10/827,717	:	PETITION UNDER
Filed: April 20, 2004	:	M.P.E.P.708.02 V
For: IMPROVED METHOD AND APPARATUS FOR	:	
WATER SYSTEM FOULING	:	

This is in response to the petition filed May 20, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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Paper No.

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of	:	
David Bailey	:	
Application No. 10/827,720	:	DECISION ON PETITION
Filed: April 20, 2004	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
0370.0767C	:	
Title: TWO-STAGE DETECTION	:	
OF TRACE IDENTIFIER	:	
MISMATCHES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 14, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 7, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 8, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on October 14, 2008 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/20/2010

Applicant	: David Bailey	: DECISION ON REQUEST FOR
Patent Number	: 7603588	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,720	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1477** 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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JOHNSON & JOHNSON
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

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OFFICE OF PETITIONS

In re Application of :
Rita Parikh :
Application No. 10/827,724 : DECISION ON PETITION
Filed: April 20, 2004 :
Attorney Docket No. 5474-P1-03-DCL :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 18, 2006. This decision precedes the mailing of a Notice of Abandonment. 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)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee; (2) the petition fee of 1,500; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1614 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 110104

DUANE MORRIS, LLP
IP Dept.
One Liberty Place
Philadephia, PA 19103-7396

NOV 22 2004

In re Application of:
ROTH
Serial No.: 10/827,737
Filed: April 20, 2004
Attorney Docket No.: **U0976-00002**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 29, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Stephan P. Gribok, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Anthony Roth, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Anthony Roth & Jack Burns
c/o UTIX Group Inc.
170 Cambridge Street
Burlington, MA 01803

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GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of
Cioanta, et al. :
Application No. 10/827,741 : ON PETITION
Filed: 19 April, 2004 :
Attorney Docket No. ACMI-2.033.US :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 1 October, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 19 April, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 29 June, 2004, the Office mailed a Notice to File Missing Parts, requiring, *inter alia*, that Petitioner file a signed oath/declaration;

- on 1 October, 2004, Petitioner filed (over a 28 September, 2004, certificate of mailing), *inter alia*, the instant petition, an oath/declaration signed by named inventors Cioanta and Klein on behalf of themselves and the non-signing inventor Jacob Lazarovitz, a request and fee for a one-month extension of time, and narratives by Petitioner Bradley M. Ganz (Reg. No. 34,170) and Kimberly A. Jarman, Associate Corporate Counsel of ACMI (which entity alleges ownership (assignment) of the instant application) evidencing that the entire application was transmitted to the non-signing inventor at his last known address and setting

forth that address, but that he failed to respond positively to the request that he sign the declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 01-054

Paper No: __

JACOB LAZAROVITZ
87 JABUTINSKI STREET
HOD HASHARON 45520
ISRAEL

COPY MAILED
JAN 14 2005
OFFICE OF PETITIONS

In re Application of
Cioanta, et al. :
Application No. 10/827,741 : COMMUNICATION
Filed: 19 April, 2004 :
Attorney Docket No. ACMI-2.033.US :

Dear Jacob Lazarovitz:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in

the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-07

Paper No:__

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW IE IRELAND

COPY MAILED
AUG 27 2007
OFFICE OF PETITIONS

In re Application of	:	
O'Shaughnessy, et al.	:	DECISION
Application No. 10/827,743	:	
Filing Date: 13 April, 2004	:	
Attorney Docket No.: (None)	:	

This is a decision on the letter filed on 28 June, 2006, followed by the petition filed on 18 September, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petitions as considered under 37 C.F.R. §1.181 are **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to Notice of Non-Compliant Amendment–following a non-final Office action–(copy enclosed) mailed by the Office on 30 November, 2005, with reply due absent extension of time (if available) on or before 30 December, 2005;

- the application went abandoned by operation of law after midnight 30 December, 2005;

- the Office mailed the Notice of Abandonment on 9 June, 2006;

- on 28 June, 2006, Petitioner filed a letter (considered as a petition) to the Examiner averring the error of the Notice of Abandonment, and filed as a follow-up the petition of 18 September, 2006, averring non-receipt of the 30 November, 2005, Office action (Notice of Non-Compliant Amendment) –however, Petitioner fails support his petitions as required by the Office (see discussion below,the Commentary at MPEP §711.03 (c) (discussed below), and at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03 c).

Petitioner also is reminded to consult the Office website–www.uspto.gov–for the proper postal and FAX filing information at the time of filing.

The Rules of Practice provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

If he has not already done so, Petitioner would do well to associate his application with his Customer Number so as to follow properly online the processing of the application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate

documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

---

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] 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.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Thus, as of this writing Petitioner appears not to have satisfied the showing requirement described above–and, thus, not satisfied his burden herein.

CONCLUSION

Because it appears that Petitioner has not carried his burden in the instant matter, the instant petition under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b). Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[12]) 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

[12] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,743	04/13/2004	Michael Francis O'Shaughnessy		4297

7590 11/30/2005

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW,
IRELAND

EXAMINER
MORRIS, LESLEY D

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/827743	Applicant(s)	
	Examiner	Art Unit	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 05/24/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- [x] 1. Amendments to the specification:
  - [x] A. Amended paragraph(s) do not include markings.
  - [ ] B. New paragraph(s) should not be underlined.
  - [ ] C. Other _____.
- [x] 2. Abstract:
  - [ ] A. Not presented on a separate sheet. 37 CFR 1.72.
  - [x] B. Other showing no changes
- [ ] 3. Amendments to the drawings:
  - [ ] A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - [ ] B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - [ ] C. Other _____.
- [x] 4. Amendments to the claims:
  - [ ] A. A complete listing of all of the claims is not present.
  - [ ] B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - [x] C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - [ ] D. The claims of this amendment paper have not been presented in ascending numerical order.
  - [ ] E. Other: _____.
- [ ] 5. The amendment is unsigned or not signed in accordance with 37 CFR 1.4.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121 or 1.4, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:

   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Camille Allen — Legal Instruments Examiner (LIE)

571-272-6571 — Telephone No.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 12-07

Paper No:__

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW IE IRELAND

COPY MAILED
DEC 1 0 2007
OFFICE OF PETITIONS

In re Application of	:	
O'Shaughnessy, et al.	:	DECISION
Application No. 10/827,743	:	
Filing Date: 13 April, 2004	:	
Attorney Docket No.: (None)	:	

This is a decision on the letter filed on 18 October, 2007, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

For the reasons set forth below, the petitions as considered under 37 C.F.R. §1.181 are **DISMISSED**.

Petitioner is cautioned to address the narrative as required and as set forth and discussed in the analysis below.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to Notice of Non-Compliant Amendment–following a non-final Office action–(copy enclosed) mailed by the Office on 30 November, 2005, with reply due absent extension of time (if available) on or before 30 December, 2005;

- the application went abandoned by operation of law after midnight 30 December, 2005;

- the Office mailed the Notice of Abandonment on 9 June, 2006;

- on 28 June, 2006, Petitioner filed a letter (considered as a petition) to the Examiner averring the error of the Notice of Abandonment, and filed as a follow-up the petition of 18 September, 2006, averring non-receipt of the 30 November, 2005, Office action (Notice of Non-Compliant Amendment) –however, Petitioner fails support his petitions as required by the Office (see discussion below,the Commentary at MPEP §711.03 (c) (discussed below), and at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03 c)–Petitioner failed to make the specific statement of non-receipt and of search, as set forth at at MPEP §711.03 (c) and discussed below, and thus the petition was dismissed on 27 September, 2007;

- in the instant petition, Petitioner again has ignored the express requirements as discussed above and below:

***

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.

* **

Petitioner's failure to satisfy these requirements may bar relief under 37 C.F.R. §1.181, and leave as Petitioner's only alternative a petition under 37 C.F.R. §1.137(b)–form enclosed (and fee required).

Petitioner also is reminded to consult the Office website–www.uspto.gov–for the proper postal and FAX filing information at the time of filing.

The Rules of Practice provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

If he has not already done so, Petitioner would do well to associate his application with his Customer Number so as to follow properly online the processing of the application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

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

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or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[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.

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]))

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.[8]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. ***The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set***

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> ***in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.***
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Thus, as of this writing Petitioner appears not to have satisfied the showing requirement described above–and, thus, not satisfied his burden herein.

CONCLUSION

Because it appears that Petitioner has not carried his burden in the instant matter, the instant petition under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b). Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such

petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information, see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[11] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 2 4 2008

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW IE
IRELAND

In re Application of	:	
O'Shaughnessy, et al.	:	DECISION
Application No. 10/827,743	:	
Filing Date: 13 April, 2004	:	
Attorney Docket No.: (None)	:	

This is a decision on the renewed letter filed on 4 February, 2008, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

For the reasons set forth below, the petitions as considered under 37 C.F.R. §1.181 are **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to Notice of Non-Compliant Amendment following a non-final Office action (copies enclosed) mailed by the Office on 30 November, 2005, with reply due absent extension of time (if available) on or before 30 December, 2005;

- the application went abandoned by operation of law after midnight 30 December, 2005;

- the Office mailed the Notice of Abandonment on 9 June, 2006;

- on 28 June, 2006, Petitioner filed a letter (considered as a petition) to the Examiner averring the error of the Notice of Abandonment, and filed as a follow-up the petition of 18 September, 2006, averring non-receipt of the 30 November, 2005, Office action (Notice of Non-Compliant Amendment) –however, Petitioner fails support his petitions as required by the Office (see: the Commentary at MPEP §711.03 (c) at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03 c)–Petitioner failed to make the specific statement of non-receipt and of search, as set forth at MPEP §711.03 (c), and thus the petition was dismissed on 27 September, 2007;

- in the first renewed petition filed on 18 October, 2007, failed to satisfy the showing requirements set forth at MPEP §711.03 (c) and was dismissed on 10 December, 2007;

- with this letter/petition, Petitioner submits copies of the docket for the instant application and a copy of the diary/calendar/due-date docket evidencing that the Office action in question was not mis-docketed into another file, and Petitioner has made the statements of non-receipt and search, consistent with the guidance in the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt and timely filing, respectively.)

And the record now evidences the return mail of the Office action in question (copy enclosed).

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 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]

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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).

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]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[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.

of a holding of abandonment.[8] (See: The guidance in 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 his burden herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 9 June 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 3611 to remail the Office action in question and for further processing in due course consistent with this decision..

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 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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,743	04/13/2004	Michael Francis O'Shaughnessy		4297

7590 11/30/2005

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW,
IRELAND

EXAMINER
MORRIS, LESLEY D

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/827743	Applicant(s)	
	Examiner	Art Unit	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 09/24/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- [x] 1. Amendments to the specification:
  - [x] A. Amended paragraph(s) do not include markings.
  - [ ] B. New paragraph(s) should not be underlined.
  - [ ] C. Other _____.
- [x] 2. Abstract:
  - [ ] A. Not presented on a separate sheet. 37 CFR 1.72.
  - [x] B. Other showing no changes
- [ ] 3. Amendments to the drawings:
  - [ ] A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - [ ] B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - [ ] C. Other _____.
- [x] 4. Amendments to the claims:
  - [ ] A. A complete listing of all of the claims is not present.
  - [ ] B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - [x] C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - [ ] D. The claims of this amendment paper have not been presented in ascending numerical order.
  - [ ] E. Other: _____.
- [ ] 5. The amendment is unsigned or not signed in accordance with 37 CFR 1.4.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121 or 1.4, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:

   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Camille Allen — Legal Instruments Examiner (LIE)

571-272-6571 — Telephone No.

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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.
10/827,743	04/13/2004	Michael Francis O'Shaughnessy		4297

7590 06/24/2005

MICHAEL F. O'SHAUGHNESSY
ATHANOR, KILTYMON
NEWCASTLE
CO. WICKLOW,
IRELAND

EXAMINER
ROYAL, PAUL

ART UNIT	PAPER NUMBER.
3611	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/827,743	O'SHAUGHNESSY ET AL.
	Examiner	Art Unit
	Paul Royal	3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 13 April 2004.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 13 April 2004 is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant repeatedly uses the phrase "which may" in the claims. The use of this phrase makes it unclear whether or not the claim limitation following the phrase "which may" is a required part of the claim or an optional part of the claim.

3. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leslie (US 6,067,011).

Leslie teaches an electronic warning system, which may provide a means of maintaining an individual or personal reminder and indicator (12) of a current status of hazardous material alert level as issued by a government, and which may display a color coded scale or other set of indicative elements, and which may be adjusted to highlight a selected alert level color or other indicative element.

Leslie does not teach the reminder or indicator providing terror alert information.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the electronic warning system of Leslie to provide the

reminder or indicator providing terror alert information since the selection of the information or indicia would depend only on the intended use of the warning assembly and the information to be displayed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fritsche teaches an automaton and talking apparatus. Berg et al. teaches an educational board game. Knapp et al. teaches a portable warning device. Scovin teaches a traffic control device. Tarlton et al. teaches a weather condition alert. Anthony teaches an early warning system. Arnold teaches an anti-terror reporting system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

Paul Royal
Examiner
Art Unit 3611

P. Royal
6/20/2005

LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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LI YOUNG
553 STONY BROOK DRIVE
BRIDGEWATER NJ 08807

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,979	:	
Issue Date: January 27, 2009	:	
Application No. 10/827,754	:	DECISION ON PETITION
Filed: April 20, 2004	:	
For: MULTIPORT COFINGER	:	
MICROREACTOR STOPPER AND DEVICE	:	

This is a decision on the papers filed July 14, 2009, which is being treated as a petition to accept the balance of the issue fee previously paid on November 24, 2008.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

PRINCE TIKARE
SUITE 188
8-17 TOTTENHAM CT RD
LONDON
W1T 1JY
UNITED KINGDOM

COPY MAILED
DEC 18 2007
OFFICE OF PETITIONS

In re Application of	:	
Prince Tikare	:	DECISION ON PETITION
Application No. 10/827,760	:	
Filed: April 16, 2004	:	
Title: TEXTURE SYNCHRONIZER	:	

This is in response to the paper styled "RE: PETITION TO REVIVE PATENT UNDER 37 CFR 1.137" filed July 23, 2007, which requests withdrawal of the abandonment (under 37 CFR 1.181). No fee is submitted for consideration of the petition under 1.137. Accordingly, the petition is being treated under 37 CFR 1.181.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed December 20, 2006. This Office action set a shortened statutory period of the longer of three months for reply, with extensions of time obtainable under § 1.136(a). The period for reply having expired on March 20, 2007, with no reply filed and no extension of time obtained. The above-identified application became abandoned on March 21, 2007. A courtesy Notice of Abandonment was mailed on July 9, 2007.

In response, applicant timely filed the instant petition. Applicant requests withdrawal of the holding of abandonment but does not state why such an action is warranted.

The application record has been carefully reviewed, and it is determined that withdrawal of the holding of abandonment is not

warranted. The application properly became abandoned for failure to file a response to the non-final Office action mailed December 20, 2006. Applicant has submitted no evidence to overcome this conclusion.

The law, 35 USC 133, provides that

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.
>
> (Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

Pursuant to 35 USC 133, the Office must regard the application as abandoned upon failure of the applicant to timely prosecute the application. Once it is determined that the application was properly abandoned, as it was in this instance, the circumstances of the abandonment are not relevant to the issue of withdrawal of the holding of abandonment. A proper abandonment will not be withdrawn. The circumstances of the abandonment may be considered on petition to revive. Payment of the petition fee, which is currently $770 for a small entity and $1540 for a large entity, is a statutory prerequisite to consideration of the petition under 37 CFR 1.137. In other words, without payment of the fee, the petition under 37 CFR 1.137 will not be considered.

In view thereof, the petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicant is not precluded from seeking revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R.

§ 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate. Any general questions regarding the filing of a petition to revive may be directed to the Office of Petitions Helpdesk at 571-272-3282 (M-F, 8:30am - 5:00 pm (EST).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUL 16 2008

In re Application of	:	
Vincent J. ZIMMER et al.	:	
Application No. 10/827,763	:	DECISION ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. **42P18658**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 06, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 06, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 07, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and publication fee of $300.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **JONI D. STUTMAN-HORN**
4040 LAFAYETTE CENTER DRIVE
CHANTILLY, VA 20151

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,767	04/20/2004	Ronald E. Secrist	087165-9088	4125

23409 7590 03/12/2008
MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

EXAMINER
KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
03/12/2008	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.

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MAR 1 2 2008

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of :
Secrist et al.
Serial No.: 10/827,767
Filed: April 20, 2004
Attorney Docket No.: 087165-9088

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed March 3, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on October 9, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, 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. As this application has been allowed, the information is being returned to applicant.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Patty Lee and Xuchen Zhang

Serial No.: 11/120,370 Art Unit: 1635

Filed: May 3, 2005 Examiner: Brian A. Whiteman

For: *INTRANASAL DELIVERY OF NUCLEIC ACID MOLECULES*

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR CONSIDERATION OF DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

Pursuant to 37 C.F.R. § 1.181, Applicants hereby petition the Director for consideration of the Declaration under 37 C.F.R. § 1.131 which was filed on October 19, 2007.

Facts Involved

A first Office action on the merits was mailed in this application on February 2, 2007. In this Office action, the Examiner rejected claims 1-10 under 35 U.S.C. § 102(a) as anticipated by Zhang, et al., *Jour. Biol. Chem.*, 279(11):10677-10684 (2004) ("Zhang").

In response to this Office action, Applicants filed an amendment and response together with a Petition for a Two-month Extension of Time for a small entity on July 9, 2007. In this amendment and response, Applicants indicated that they would submit shortly an executed

Declaration under 37 C.F.R. § 1.131 by Dr. Patty Lee and Xuchen Zhang, establishing that Zhang is not by "another", and therefore, Zhang is not available as prior art under 35 U.S.C. § 102(a). Applicants also indicated that the declaration would establish that Dr. Patty Lee and Xuchen Zhang conceived and reduced to practice compositions and methods as defined by the claims of the present application prior to December 18, 2003.

Due to delays in explaining what was required, unavailability of both inventors, collection and review of documents in support thereof, and obtaining authorization through the assignee, Yale University, this declaration was not available at time of filing of the response.

A final Office action was mailed on July 19, 2007, only ten days after Applicants filed their amendment and response to the first Office action on the merits. The final Office action maintained the rejection of claims 1-10 under 35 U.S.C. § 102(a) as anticipated by Zhang.

In response to the final Office action, Applicants tried to interview this case before filing a further response. This took some time to arrange but was believed to be a productive exchange. An amendment and response was then filed on October 19, 2007 together with an executed Declaration under 37 C.F.R. § 1.131 by Dr. Patty Lee and Xuchen Zhang. As indicated by Applicants in the response to the first Office action on the merits, this declaration established that Zhang is not by "another", and therefore, Zhang is not available as prior art under 35 U.S.C. § 102(a). This declaration also established that Dr. Patty Lee and Xuchen Zhang conceived and reduced to practice compositions and methods as defined by the claims of the present application prior to December 18, 2003.

Entry of the Declaration clearly removes at least one issue on appeal. A Notice of Appeal has been filed.

An Advisory Action was mailed on October 30, 2007. In the Advisory Action the Examiner indicated that the Declaration under 37 C.F.R. § 1.131 by Dr. Patty Lee and Xuchen Zhang would not being considered on the basis that it was not earlier presented. During a discussion with the examiner and his supervisor, the undersigned was initially told that the examiner could not consider the Declaration since it was submitted after final, then revised that statement to say it was discretionary and therefore the examiner did not have to consider the declaration.

Action Requested

Applicants request that the Director instruct the Examiner to review and make of record the Declaration under 37 C.F.R. § 1.131 filed on October 19, 2007. Applicants clearly indicated in the response to the first Office action on the merits that they would be shortly submitting a Declaration under 37 C.F.R. § 1.131 by Dr. Patty Lee and Xuchen Zhang establishing that Zhang is not by "another", and that Dr. Patty Lee and Xuchen Zhang conceived and reduced to practice compositions and methods as defined by the claims of the present application prior to December 18, 2003. However, the Examiner issued a final Office action a mere ten days after the amendment and response to the first Office action on the merits was filed. Ten days is an unusually short time for issuing an Office action following an amendment and response, and preempted the submission of the declaration by the Applicants. Although the Examiner was clearly aware of the Applicant's intent to file a Declaration under 37 C.F.R. § 1.131, no attempt

was made to contact the Applicant's representative prior to the mailing of the final Office action nor was the undersigned led to believe that the declaration would not be considered, either in the office action nor during the interview.

It is believed that no fee is required with this submission. However, should a fee be required, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 50-3129.

Respectfully submitted,

/Patrea L. Pabst/

Patrea L. Pabst
Reg. No. 31,284

Date: November 19, 2007

PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361
(404) 879-2151
(404) 879-2160 (Facsimile)

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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MAY 23 2008

In re Application of	:	
HAMADA et al.	:	DECISION ON APPLICATION
Application No. 10/827,779	:	FOR
Filed: 04/20/2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. FUSA 18.128C	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)," filed December 3, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred thirty-one (231) days to two hundred forty (240) 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 **two hundred forty (240) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 7, 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 (PTA) to date is two hundred thirty-one (231) days. On December 3, 2007, applicants timely submitted the instant application for patent term adjustment[1].

[1] The Office records show that applicants paid the issue fee on December 4, 2007.

Applicants seek the removal of the reduction of ten (10) days for the submission of a second terminal disclaimer[1] on April 14, 2007, which the Office deemed as a reduction under 37 CFR 1.704(c)(8). Applicants note that the PTA Calculations incorrectly indicates that a second terminal disclaimer was filed on April 14, 2007, and that the Request for an Extension of Time for Response was filed on April 4, 2007. A review of the official record reveals that no terminal disclaimer was filed on April 14, 2007. Accordingly, the reduction of ten (10) days was not warranted. Furthermore, the Request for an Extension of Time for Response was received on April 5, 2007. Therefore, the date of April 5, 2007, and not April 4, 2007, should have been used for calculating PTA.

Pursuant to 37 CFR § 1.704(b):

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(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 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.

In accordance with 37 CFR § 1.704(b), the period of adjustment of the term of the patent should have been reduced by fifty (50) days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of

[1] The Office notes that a terminal disclaimer was filed on April 4, 2007, as part of the reply to the nonfinal Office action mailed on November 8, 2006.

the Office action under 35 U.S.C. 132, February 15, 2007, and ending on the date the reply was filed, April 5, 2007.

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is 240 days (344 days of Office delay - 104 days of applicant delay).

The Office will charge the $200.00 fee set forth in 37 CFR § 1.703 to Deposit Account No. 50-1290. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of updated PAIR screen

Day : Thursday
Date: 5/22/2008

PALM INTRANET

Time: 14:16:00

PTA Calculations for Application: 10/827779

Application Filing Date:	04/20/2004	PTO Delay (PTO):	344
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	113
Post-Issue Petitions:	0	Total PTA (days):	240
PTO Delay Adjustment:	9		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	05/22/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	9		
49	11/07/2007	MAIL NOTICE OF ALLOWANCE			
48	11/06/2007	ISSUE REVISION COMPLETED			
47	11/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	10/31/2007	DOCUMENT VERIFICATION			
45	10/31/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
44	10/29/2007	NOTICE OF ALLOWABILITY			
43	10/19/2007	DATE FORWARDED TO EXAMINER			
42	10/15/2007	RESPONSE AFTER NON-FINAL ACTION		25	40
41	10/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	06/20/2007	MAIL NON-FINAL REJECTION			
39	06/11/2007	NON-FINAL REJECTION			
38	05/07/2007	PARALEGAL TD ACCEPTED			
37	04/14/2007	TERMINAL DISCLAIMER FILED		10	33
36	04/04/2007	TERMINAL DISCLAIMER FEE PAID			
35	04/04/2007	TERMINAL DISCLAIMER FILED			
34	04/09/2007	DATE FORWARDED TO EXAMINER			
33	04/04/2007	RESPONSE AFTER NON-FINAL ACTION		49	31
32	04/04/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	11/14/2006	MAIL NON-FINAL REJECTION			
30	11/09/2006	NON-FINAL REJECTION			
29	10/03/2006	DATE FORWARDED TO EXAMINER			
28	09/28/2006	RESPONSE AFTER NON-FINAL ACTION		29	26

27	09/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	05/30/2006	MAIL NON-FINAL REJECTION	344		-1
25	05/26/2006	NON-FINAL REJECTION			
24	04/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	07/23/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	04/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	06/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	01/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	07/23/2004	REFERENCE CAPTURE ON IDS			
16.7	07/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/20/2004	REFERENCE CAPTURE ON IDS			
14.7	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	09/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/20/2004	PRELIMINARY AMENDMENT			
10	09/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	06/29/2004	APPLICATION RETURN FROM OIPE			
8	06/29/2004	APPLICATION RETURN TO OIPE			
7	06/28/2004	APPLICATION DISPATCHED FROM OIPE			
6	06/29/2004	APPLICATION IS NOW COMPLETE			
5	05/26/2004	CLEARED BY L&R (LARS)			
4	05/24/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/24/2004	CASE CLASSIFIED BY OIPE			
2	04/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/20/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of	:	
Subramaniam, et al.	:	
Application No. 10/827,780	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO WITHDRAW
Attorney Docket No. 5306P017D	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to BLAKELY SOKOLOFF TAYLOR & ZAFMAN has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4 Suite 201
Austin, TX 78759

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BLDG. H, SUITE 250
AUSTIN TX 78758

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OCT 27 2008

In re Application of	:	
Pavitra Subramaniam et al.	:	
Application No. 10/827,780	:	ON PETITION
Filed: August 21, 2003	:	
Attorney Docket No. OIC0198D1US	:	

This is a decision in response to the petition filed October 10, 2008 under 37 CFR 1.181(b) to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before July 24, 2008 as was required by the Notice of Allowance mailed April 24, 2008. This application therefore became abandoned on July 25, 2008. Accordingly, a Notice of Abandonment was mailed August 21, 2008.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket and docket records revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2167 for a re-sending of the Notice of Allowance and Notice of Allowability.

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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EKSIGENT TECHNOLOGIES, LLC
c/o SHELDON MAK ROSE & ANDERSON
100 East Corson Street - Third Floor
PASADENA, CA 91103-3842

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JUN 17 2008
OFFICE OF PETITIONS

In re Application of	:	
Don W. Arnold, et. al.	:	
Application No. 10/827,788	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. 14700	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed February 12, 2007. A Notice of Abandonment was mailed on August 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1745 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE
N.W., SUITE 1130
WASHINGTON, DC 20036

Applicant: William J. Labarge, et al.	DECISION ON REQUEST
Patent Number:Not Yet Available	FOR RECALCULATION of
Issue Date: Not Yet Available	PATENT TERM
Application No. 10/827,826	ADJUSTMENT IN VIEW OF WYETH
Filed: April 20, 2004	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

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OFFICE OF PETITIONS

In re Application of	:	
Peter J. Spiess et al	:	
Application No. 10/827,855	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 16729	:	

This is a decision on the petition filed January 8, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 9, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 10, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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DERGOSITS & NOAH LLP
SUITE 1450
FOUR EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Lipton et al.	:	
Application No. 10/827,871	:	DECISION DISMISSING
Filed: 19 April, 2004	:	PETITION
Attorney Docket No. 300.88	:	

This is a decision on the petition filed on 4 October, 2004, which is treated as a petition under 37 CFR 1.183, requesting that the requirements of 37 CFR 1.10 be waived and that the above-identified application be accorded a filing date of 16 April, 2004.

Petitioners admit in the petition that the application was deposited with the U.S. Postal Service as Express Mail on 19 April, 2004, but request, in essence, that the requirements of 37 CFR 1.10 be waived in order to accord the application a filing date of 16 April, 2004. The petition is accompanied by a declaration of Richard A. Nebb stating that counsel's former secretary, Saundra Hunter, was given the application to deposit with the USPS on 16 April, 2004, her last day of work as counsel's secretary. However, Ms. Hunter inadvertently forgot to deposit the application on that date, and did not actually deposit the application with the USPS until 19 April, 2004.

Under 37 CFR 1.183, the Commissioner may waive requirements of the rules so long as those requirements are not requirements of the statute.[1]

Under 35 U.S.C. § 111, the filing date of an application is defined as the date the specification and drawings are filed in the U.S. Patent and Trademark Office. Under 35 U.S.C. § 21, the Commissioner may by rule prescribe that any paper or fee required to be filed in the U.S. Patent and Trademark Office will be considered filed in the Office on the date on which it was

[1] In re Kruysman, Inc., 199 USPQ 110 (Comm'r Pats. 1977).

deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designed by the Commissioner.

Since there were no postal service interruptions or emergencies designated by the Commissioner on 16 April, 2004, the only basis under the statute for according this application a filing date of 16 April, 2004, would be a showing that the application was deposited with the United States Postal Service on 16 April, 2004.

However, applications admit, and the evidence supplied by the applicants indicates, that the application was not deposited with the United States Postal Service on 16 April, 2004. As indicated above, a requirement of the statute cannot be waived by the Commissioner.

The petition is **dismissed**.

As this petition was not necessitated by an error on the part of the USPTO, and has been considered under 37 CFR 1.183, the petition fee will not be refunded.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 19 April, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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2099 GATEWAY PLACE
SUITE 320
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Patent No. 6,933,548
Issue Date: August 23, 2005
Application No. 10/827,886
Filed: April 19, 2004
Patentee(s): Tsu-Jae King

ON PETITION

This is a decision on the petition filed on August 7, 2006, which is being treated as a Request under 37 CFR 3.81[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) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1]*See Official Gazette of June 22, 2004*

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of: Frank Ingle, et. al.	:	
Application No. 10/827,887	:	NOTICE
Filed: April 19, 2004	:	
Attorney Docket No. 017761-000161US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to Technology Center Art Unit 3739 for examination, in due course.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Ingle	:	
Application No. 10/827,887	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO WITHDRAW
Attorney Docket No. 017761-000161US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 5, 2005.

The request is **NOT APPROVED** 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 June 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272- 1642.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

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James Y. Go
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Mail Date: 04/21/2010

Applicant	: Balu Balakrishnan	: DECISION ON REQUEST FOR
Patent Number	: 7663852	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,889	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Ian Ashdown, et al.	:	
Application No. 10/827,897	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. 049982-309381	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 1 4 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application	:	Lloyd E. Weaver
Serial No.	:	10/827,906
Filed	:	April 20, 2004
For	:	Pulverized Coal Gasifier Fuel Distribution, Feed, and Burner System
Attorney's Docket	:	LWEAVER-002XX
Examiner	:	TBA
Group Art Unit	:	TBA

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 of Patents, PO Box 1450, Alexandria, VA 22313-1450 on June 8, 2004.

By Paul J. Kroon Jr.
Paul J. Kroon, Jr., Esq.
Registration No. 51,902
Attorney for Applicant

PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(C)

PETITION GRANTED
R Crispino
Richard Crispino
Special Program Examiner
TC 1700 2/7/05

Commissioner of Patents
PO Box 1450
Alexandria, VA, 22313-1450

Sir:

Applicant respectfully requests "special" status under 37 CFR § 1.102(c). As will be explained in greater detail hereinbelow, Applicant respectfully submits that the present invention materially contributes to category (B) set forth in MPEP section 708.02 (VI).

Applicant submits that the present invention relates to a gasifier used to produce energy in a power plant and more particularly, relates to a method and apparatus for improved combustion within a gasifier. The gasifier system combines a

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OFFICE OF PETITIONS

In re Application of	:	
Szeto et al.	:	DECISION ON PETITION
Application No. 10/827,910	:	TO WITHDRAW
Filed: April 19, 2004	:	FROM RECORD
Attorney Docket No. 324212008600	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 16, 2005 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO
C/O MOFO PALO ALTO
755 Page Mill Road
Palo Alto CA 94304

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KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

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OFFICE OF PETITIONS

In re Application of
Tekinay and Choi
Application No. 10/827,911
Filed: April 20, 2004
Attorney Docket No. 463/3
For: Wireless Network Assisted GPS System

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed 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(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy (1), (2), and (4).

As to (1), petitioner has failed to prove that the inventor cannot be found or reached after diligent effort. The petition states that petitioner believes Choi has moved to Korea and works for Korea Telecom but provides no basis for such a belief. Petitioner has failed to prove that steps have been taken to try to locate the inventor at his last residential address. Petitioner has failed to prove that steps were taken to try to locate the inventor using directory assistance for the area where the inventor used to live and/or work. The current record is insufficient to establish that diligent effort has been made to locate the inventor

As to (2) and (4), the mailing address listed on the declaration appears to the address of Choi's previous employer. The mailing address should be the address where petitioner customarily received his mail. The petition fails to indicate that Choi customarily received his mail at his employer's address rather than his residential address. A supplemental declaration or Application Data Sheet should be filed providing the last known mailing address for Choi.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of Tekinay and Choi Application No. 10/827,911 Filed: April 20, 2004 Attorney Docket No. 463/3 For: Wireless Network Assisted GPS System	: : : : : :	Decision Noting Joinder of Inventor and Decision Decision Dismissing Any Request for Status Under 37 CFR 1.47 As Moot

This is a decision in response to the renewed petition under 37 CFR 1.47 filed April 8, 2005.

The petition is **dismissed as moot**.

Papers filed with the petition include a declaration signed by the previously non-signing inventor.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is moot; this application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

The Office of Initial Patent Examination will be notified of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of
Kotoko Morikawa et al
Application No. 10/827,932
Filed: April 20, 2004
Attorney Docket No. 16CT03015

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 6, 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 June 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

In re Application of
David P. Goren et al.
Application No. 10/827,935
Filed: April 19, 2005

For: **MULTIMODE WIRELESS LOCAL AREA NETWORK/RADIO FREQUENCY IDENTIFICATION ASSET TAG**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on March 30, 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.

A revocation and power of attorney was filed on September 12, 2005. Accordingly, the request is **DISMISSED**.

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.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications

CC:
BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BUCKLEY MASCHOFF TALWALKAR
5 ELM STREET
NEW CANAAN, CT 06840

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of Oliver L. Frankel et al Application No. 10/827,940 Filed: April 20, 2004 Attorney Docket No. G08.082	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the petition under 37 CFR § 1.102(d), filed April 19, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with requirements (A) and (B) above. However, the explanation of the Pre-Examination Search in the petition is interpreted to meet the requirement (C) that a careful and

thorough search of the prior art has been made. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition. The petition is granted and the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3624 for action on the merits commensurate with decision.

Denise Pother
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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Alexandria, VA 22313-1450
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NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG NY 10962-2100

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FEB 16 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,065,954	:	
Issue Date: June 27, 2006	:	
Application No. 10/827,943	:	
Filed: April 20, 2004	:	
Attorney Docket No. J641-003 US	:	

This is a decision on the petition filed October 12, 2006, which is being treated as a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **Dismissed**.

The required fee for a petition under 37 CFR 1.182 is in accordance with 37 CFR 1.17(f), which is $400. Petitioner submittted $130 with the petition on October 12, 2006.

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: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG NY 10962-2100

In re Patent No. 7,065,954
Issue Date: June 27, 2006
Application No. 10/827,943
Filed: April 20, 2004
Attorney Docket No. J641-003 US

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed March 15, 2007, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8C32 (Fax 571-270-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/10/08

Paper No.: —

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/827948 Patent No: 7280214B2

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: the 7th correction "Column 12, line 29 ..." should be directed ~~from~~ to "Column 12, line 27 ..."

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : *7,280,214 B2*

APPLICATION NO.: *10/827,948*

ISSUE DATE : *October 9, 2007*

INVENTOR(S) : *Rocco DiFoggio, Arnlod Walkow, Paul Bergren*

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 4, line 30, change "FIG. 12 is an illustration of" to --FIGS. 12A-D illustrate--;

Column 10, line 31, change "Turning now to FIG. 12" to --Turning now to FIGS. 12A-D--;

Column 10, line 62, change "interference filter" to --the interference filter--;

Column 10, line 67, change "determine" to --estimate--;

Column 11, line 5, change "claim 1, the apparatus further" to --claim 1 further--;

Column 11, line 34, change "claim 1, further comprising:" to --claim 1,--;

Column 12, line 29, change "the rotating filter" to --the rotating interference filter--;

Column 12, line 38, change "at least one the set" to --at least one from the set--;

Column 12, line 39, change "of aromatics, olefins, saturates in the fluid" to --of: aromatics, olefins, and saturates in the fluid--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Madan, Mossman & Sriram, P.C.
2603 Augusta, Suite 700
Houston, Texas 77057-5662

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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OFFICE OF PETITIONS

In re Application of Stuart Kao et al Application No. 10/827,950 Filed: April 20, 2004 Attorney Docket No. HTIRC03-009	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 31, 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**.

Petitioner requests that this application be withdrawn from issue in order to amend the assignee information on the issue fee transmittal. Such an amendment under 37 CFR 1.312 to the application after payment of the issue fee cannot be effected without withdrawing this application from issue pursuant to the provisions of 37 CFR 1.313(c)(2). *See* MPEP Section 706.07(h)(II).

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue.

Petitioner is advised that the issue fee paid on September 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 3729 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Joseph J. Laks
Thomsen Licensing, LLC
2 Independence Way, Patent Operations
P.O. Box 5312
Princeton, NJ 08543

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In re Application of	:	
Jens Peter Wittenburg et al.	:	
Application No. 10/827,971	:	DECISION ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. PD030042	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 18, 2007. Accordingly, the date of abandonment of this application is March 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature of Guy H. Eriksen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. None

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

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SEP 28 2007
OFFICE OF PETITIONS

In re Application of :
Robert R. Alfano, Baolong Yu, :
and Yuanlong Yang :
Application No. 10/827,974 : DECISION ON PETITION UNDER
Filed: April 19, 2004 : 37 C.F.R. § 1.47(A)
Attorney Docket No. 881-7 :
Title: DETECTION OF BIOLOGICAL :
MOLECULES USING THZ ABSORPTION :
SPECTROSCOPY :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a)[1], filed January 3, 2005.

The Office regrets the period of delay in issuing this decision.

On April 19, 2004, the application was filed, identifying Robert R. Alfano, Baolong Yu, an Yuanlong Yang as joint inventors. The application was deposited without an executed oath or

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1 A grantable petition under 37 C.F.R. § 1.47(a) requires:
(1) the petition fee of $200;
(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 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventor;
(4) proof that either:
a) 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) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

declaration. On June 29, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

With the present petition, Petitioner has submitted, *inter alia*, the surcharge associated with the late submission of an oath or declaration, a declaration that has been executed by each of the inventors save Mr. Yang, and a statement of facts. Petitioner has further included a three-month extension of time, so as to make timely this response[2]. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has established that a complete copy of the application was sent to the non-signing inventor, and that a response has not been received.

Petitioner has met each of the five requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, the petition is **GRANTED** and this application is hereby accorded Rule § 1.47(a) status.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

The general phone number for OIPE is 571-272-4000. 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 extension of time request contains a certificate of mailing dated November 29, 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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SEP 28 2007

OFFICE OF PETITIONS

Yuanlong Yang
778 Nanjing Road (West)
Apt. 4
Shanhai 200041
P.R. China

In re Application of	:	
Robert R. Alfano, Baolong Yu,	:	
and Yuanlong Yang	:	
Application No. 10/827,974	:	LETTER
Filed: April 19, 2004	:	
Attorney Docket No. 881-7	:	
Title: DETECTION OF BIOLOGICAL	:	
MOLECULES USING THZ ABSORPTION	:	
SPECTROSCOPY	:	

Dear Mr. Yang:

You are named a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 C.F.R. § 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: DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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JUL 0 9 2004
OFFICE OF PETITIONS

In re Application of	:
Lin Chen	:
Application No. 10/827,983	: DECISION REFUSING STATUS
Filed: 20 April, 2004	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 252209-1040	:

This is in response to the petition filed on 13 January, 2004, which is treated as a petition under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 20 April, 2004,, with a declaration naming Lin Chen as the sole inventor signed by Michael Shiuan, Vice President of S3 Graphics, Inc. The present petition was also filed therewith. Petitioners assert that the non-signing inventor, Lin Chen, orally refused to sign the declaration during a telephone call with petitioner's registered patent attorney on or about 9 March, 2004.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (1), (2), and (6).

As to item (1), petitioner must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Although petitioner asserts that Chen refused to sign the declaration, Rule 47 requires that a copy of the application must be sent or given to the non-signing inventor.[2] Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioner must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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. An oath or declaration in compliance with 37 CFR 1.63 and 1.64, properly identifying the application by application number and filing date, is required.[3] The present declaration is defective because it does not contain the mailing address of the non-signing inventor. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, containing the residence and mailing address of the non-signing inventor must be furnished with any renewed petition.

With regards to item (4), petitioners state that the non-signing inventor is believed to be living at a different address than the address listed in the petition. If a different last known

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[1] MPEP 409.03(d).

[2] See note 1, supra.

[3] See MPEP 409.03(b).

address is determined, a copy of the application papers should be sent to that address, and the new address should be provided to the Office with any renewed petition.

In regards to item (5), petitioner has not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[4] Petitioner may establish proprietary interest by filing a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(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 1.47(b) applicant. Further in this regard, it is noted that the petition states that VIA Technologies, Inc. is the assignee of the application, although no assignment has been filed, while the declaration is signed on behalf of S3 Graphics, Inc., petitioner should clarify the relationship between S3 Graphics, Inc., and VIA Technologies, Inc..

In regards to item (6), petitioners must establish irreparable damages in accordance with MPEP 409.03(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

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

---

[4] MPEP 409.03(f).

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

JAN 22 2008

In re Application of: Joseph D. Sawicki et al. Serial No.: 10/827,990 Filed: April 19, 2004 Attorney Docket No.: 003921.00159	DECISION *SUA SPONTE* WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on December 20, 2007. The application was held abandoned for failure to timely file a proper reply to the Office communication mailed on June 4, 2007. The Office communication was a final Office action and set a three (3) month period for response.

A review of the application record reveals that on December 4, 2007 applicant filed a proper Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 together with a petition and fee for a 3 month extension of time. The RCE constitutes a proper and timely reply to the final Office action mailed on June 4, 2007.

Accordingly, the Notice of Abandonment mailed on December 20, 2007 is hereby VACATED and the holding of abandonment is withdrawn.

The Technical Support Staff of Technology Center 2800 will enter the RCE and its submission (a request for reconsideration) filed December 4, 2007 and forward the application to the examiner for consideration.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Yoshihiro Kawaoka	: DECISION ON REQUEST FOR
Patent Number	: 7588769	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/827,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NEW YORK NY 10017

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AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:
Bedhome et al.	:
Application No. 10/828,020	: DECISION DISMISSING PETITION
Filed: 19 April, 2004	:
Atty Docket No. 603162-999053	:

This is a decision on the petition filed on 27 July, 2004, styled under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of 19 April, 2004, with Figure 12 described in the specification as a part of the original disclosure.

On 19 April, 2004, the above-identified application was filed. However, on 30 June, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of 19 April, 2004, and advising applicant that Figure 12 described in the specification appeared to have been omitted.

In response, on 27 July, applicant filed the present petition, a $130.00 petition fee, and a copy of one (1) sheet of drawings containing Figure 12. Petitioners request that the application, including Figure 12, be accorded a filing date of 19 April, 2004.

Petitioners concede that Figure 12 was omitted when the present application was filed, but state that Figure 12 was contained in copending Application No. 10/828,020, which is incorporated by reference in the present application.

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, petitioners neither assert that the missing Figures were deposited on 19 April, 2004, nor request the 27 July, 2004, (the date the missing Figures were supplied) filing date. Rather, petitioners assert that the missing figures were part of a copending application which the present application incorporated by reference.

It is noted that the first line of the specification filed with the original application papers states that the present application is a continuation-in-part of Application No. 10/706,315, "which application is hereby incorporated by reference in its entirety."

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 12 described in the specification is not new matter if it was a part of the disclosure of the prior application.

Accordingly, the petition is dismissed.

The one (1) sheet of drawings containing Figure 12 submitted with the present petition on 27 July, 2004, will not be entered or used during the prosecution of this application, but will be retained in the application file. However, applicant may resubmit the omitted sheets as an amendment for consideration by the examiner under Sections 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

Receipt is acknowledged of the 13 sheets of drawings filed on 27 July, 2004. The 13 sheets of drawings filed on 27 July, 2004, are not considered part of the original disclosure and must be reviewed by the examiner for new matter.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 19 April, 2004, using 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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Applied Materials
Patent Counsel - Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

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In re Application of :
Rajagopalan, et al. :
Filed: April 19, 2004 : ON PETITION
Application No. 10/828,023 :
Dkt. No.: AMAT/8583/DSM/LOW K/JW :

This decision is in response to the "PETITION TO WITHDRAW HOLDING OF FAILURE TO MEET FILING DATE REQUIREMENTS UNDER CFR 1.53(e)," filed September 29, 2004.

The petition is **GRANTED**.

The application was submitted April 19, 2004. On July 29, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated, *inter alia*, that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that the application was submitted without drawings and that "[t]he figures provided in the specification are illustrative of the disclosed subject matter, and are not necessary for the understanding of the subject matter sought to be patented."

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification

as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the Notice of Incomplete Application mailed July 29, 2004 was mailed in error and is hereby **withdrawn**.

Accordingly, the petition to accord the application a filing date of April 19, 2004 is **GRANTED**.

The application will be processed with only the papers present on filing with a filing date of April 19, 2004, without drawings as part of the original disclosure.

To avoid delay in processing, petitioners are advised to submit a preliminary amendment canceling reference to the drawings prior to issuance of the first Office action on the merits.

No fee is due in connection with this matter. A refund of $130.00 has been requested on petitioners' behalf from the Finance Office, Refund Section.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 19, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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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	:	
Morrison et al.	:	DECISION ON PETITION
Application No. 10/828,027	:	TO WITHDRAW
Filed: April 19, 2004	:	FROM RECORD
Attorney Docket No. 017761-001830US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.§ 1.36(b), filed June 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with Customer Number 20350.

All attorneys/agents associated with Customer Number 20350 have been withdrawn.

Applicants are 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicants.

There is an outstanding Office action mailed May 26, 2006 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

Cc:

GEORGE A. MORRISON
707 SHELL BLVD., #2024
FOSTER CITY, CA 94404

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

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CLEMENTS BERNARD MILLER
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE NC 28211

In re Application of Richard J. Manasek et al Application No. 10/828,044 Filed: April 20, 2004 Attorney Docket No. 3192 CIP	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2007, and supplemented on October 16, 2007, and on February 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed February 20, 2007, is accepted as having been unintentionally delayed.

The amendment filed October 16, 2007, is missing page number (8) of the claims. However, page number (8) of the claims is included with the amendment received on September 21, 2007.

If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Power of Attorney submitted on September 21, 2007, is not signed by a proper party of interest. The statement under

3.73(b) is signed by James R. Sweeney II and not by Joseph Hochgesang. Therefore, the Power of Attorney submitted on September 21, 2007, is not proper.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1793.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of Manasek, et al. Application No. 10/828,044 Filed: April 20, 2004 Attorney Docket No. 3192 CIP(37506-75393)	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 17, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 12, 2009. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on May 13, 2009. A Notice of Abandonment was mailed on June 10, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,939,089	2005-09-06	10/828,045	2004-04-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Anthony P. Wickman/	Date (YYYY-MM-DD)	2010-06-24
Name	Anthony P. Wickman		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6939089
Issue Date: September 6,2005
Application No. 10828045
Filed: April 20,2004
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2010 .
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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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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OFFICE OF PETITIONS

In re Application of	:
Peter J. Jenquin et al	:
Application No. 10/828,095	: DECISION GRANTING PETITION
Filed: April 20, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1047.18502	:

This is a decision on the petition, filed April 9, 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 February 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1734 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DONALD J. ERSLER
725 GARVENS AVENUE
BROOKFIELD, WI 53005

In re Application of
Robert F. Guida
Application No. 10/828,113
Filed: April 20, 2004
For: **HAND HELD SECURITY LABEL DEACTIVATION DEVICE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed March 24, 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 verification of Birth Certificate for Robert F. Guida indicating 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.

The application file is being forwarded to the examination art unit for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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DEC 17 2004

Technology Center 2100

Law Office of Bernhard Molldrem
224 Harrison Street
Syracuse, NY 13202

In re Application of:
Carmen P. LOGAN, JR.
Application No. 10/828,144
Filed: April 21, 2004
For: PORTABLE HEALTH CARE HISTORY INFORMATION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed October 1, 2004 to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Carmen P. Logan, Jr., is over sixty five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK, NY 10036-2714

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MAY 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,256,342	:	
Issue Date: August 14, 2007	:	
Application No. 10/828,192	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. X2004.0159	:	

This is a decision on the petition under 37 CFR 1.182, filed April 21, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Corr. D30-B (Fax No. (571) 270-9937)

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K STREET, NW
BOX IP
WASHINGTON DC 20007

In re Application of
Daniel Schwartz, et al.
Application No. 10/828,252
Filed: April 21, 2004
For: **METHOD OF PRODUCING AND DELIVERING AN ELECTRONIC MAGAZINE IN FULL-SCREEN FORMAT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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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Lelio Dante Greppi
Laprida 1632
Rosario, S.F. 2000
Argentina

MAILED

MAR 1 1 2005

Director's Office
Group 3700

In re application of Lelio Dante Greppi	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/828270 Filed: April 21, 2004	:	

For: **AN INTERNAL COMBUSTION ENGINE OF OPEN-CLOSET CYCLE AND BINARY FLUID**

This is a decision on the petition filed on April 21, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 3/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LELIO DANTE GREPPI
LAPRIDA 1632
ROSARIO 2000 AR **ARGENTINA**

MAILED

MAR 18 2009

OFFICE OF PETITIONS

In re Patent No. 6,993,897	:	
Issue Date: February 7, 2006	:	COMMUNICATION REGARDING
Application No. 10/828,270	:	MAINTENANCE FEE
Filed: April 21, 2004	:	
Attorney Docket No. N/A	:	

This is a communication regarding the Letter filed on September 9, 2008, regarding the maintenance fees for the above-identified patent.

A review of the record shows that the patent issued February 7, 2006. The window period for paying $490 for the 3 ½ year maintenance fee opened on February 9, 2009 and can be submitted without a surcharge before August 10, 2009. On or after August 10, 2009, the maintenance fee of $490 and within six month surcharge of $65 will be due before February 8, 2010. Fees not received by February 8, 2010 will cause the patent to expire and a petition under 37 CFR 1.378(b) or (c) and a surcharge of $700 or $1,640 will be required for reinstatement. A current fee schedule is enclosed for petitioner's convenience.

This patent file is being referred to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE
FY 2009 FEE SCHEDULE

Last Revised on March 1, 2009

The filing fee (or national fee), **search fee, and examination fee** are due on filing.

The fees subject to reduction for small entities that have established status (37 CFR 1.27) are shown in a separate column. For additional information, please call the USPTO Contact Center at (571) 272-1000 or (800) 786-9199. Payments from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required.

Patent

- Patent Application Filing Fees
- Patent Search Fees
- Patent Examination Fees
- Patent Post-Allowance Fees
- Patent Maintenance Fees
- Miscellaneous Patent Fees
- Post Issuance Fees
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Patent Cooperation Treaty

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- PCT Fees to Foreign Offices

General

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- Computer Service Fees

Trademark

- Trademark Processing Fees
- Trademark Madrid Protocol Fees
- Trademark International Application Fees
- Trademark Service Fees
- Fastener Quality Act Fees

USPTO Fee Schedule, effective October 02, 2008

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Application Filing Fees				
1011/2011	1.16(a)(1)	Basic filing fee - Utility ***filed on or after December 8, 2004***	330.00	165.00
4011†	1.16(a)(1)	Basic filing fee - Utility (electronic filing for small entities) ***filed on or after December 8, 2004***	n/a	82.00
1001/2001	1.16(a)(2)	Basic filing fee - Utility ***filed before December 8, 2004***	850.00	425.00
1201/2201	1.16(h)	Independent claims in excess of three	220.00	110.00
1202/2202	1.16(i)	Claims in excess of 20	52.00	26.00

1203/2203	1.16(j)	Multiple dependent claim	390.00	195.00
1051/2051	1.16(f)	Surcharge - Late filing fee, search fee, examination fee or oath or declaration	130.00	65.00
1081/2081	1.16(s)	Utility Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1012/2012	1.16(b)(1)	Basic filing fee - Design ***filed on or after December 8, 2004***	220.00	110.00
1002/2002	1.16(b)(2)	Basic filing fee - Design ***filed before December 8, 2004***	380.00	190.00
1017/2017	1.16(b)(1)	Basic filing fee - Design (CPA) ***filed on or after December 8, 2004***	220.00	110.00
1007/2007	1.16(b)(2)	Basic filing fee - Design (CPA) ***filed before December 8, 2004***	380.00	190.00
1082/2082	1.16(s)	Design Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1013/2013	1.16(c)(1)	Basic filing fee - Plant ***filed on or after December 8, 2004***	220.00	110.00
1003/2003	1.16(c)(2)	Basic filing fee - Plant ***filed before December 8, 2004***	600.00	300.00
1083/2083	1.16(s)	Plant Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1014/2014	1.16(e)(1)	Basic filing fee - Reissue ***filed on or after December 8, 2004***	330.00	165.00
1004/2004	1.16(e)(2)	Basic filing fee - Reissue ***filed before December 8, 2004***	850.00	425.00
1019/2019	1.16(e)(1)	Basic filing fee - Design Reissue (CPA) ***filed on or after December 8, 2004***	330.00	165.00
1009/2009	1.16(e)(2)	Basic filing fee - Design Reissue (CPA) ***filed before December 8, 2004***	850.00	425.00
1204/2204	1.16(h)	Reissue independent claims in excess of three	220.00	110.00
1205/2205	1.16(i)	Reissue claims in excess of 20	52.00	26.00
1084/2084	1.16(s)	Reissue Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1005/2005	1.16(d)	Provisional application filing fee	220.00	110.00
1085/2085	1.16(s)	Provisional Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1052/2052	1.16(g)	Surcharge - Late provisional filing fee or cover sheet	50.00	25.00
1053	1.17(i)	Non-English specification	130.00	
† The 4000 series fee code may be used via EFS-Web at **http://www.uspto.gov/ebc/efs_help.html**				
Patent Search Fees				Back to Top
1111/2111	1.16(k)	Utility Search Fee	540.00	270.00
1112/2112	1.16(l)	Design Search Fee	100.00	50.00
1113/2113	1.16(m)	Plant Search Fee	330.00	165.00
1114/2114	1.16(n)	Reissue Search Fee	540.00	270.00
Patent Examination Fees				Back to Top

1311/2311	1.16(o)	Utility Examination Fee	220.00	110.00
1312/2312	1.16(p)	Design Examination Fee	140.00	70.00
1313/2313	1.16(q)	Plant Examination Fee	170.00	85.00
1314/2314	1.16(r)	Reissue Examination Fee	650.00	325.00
Patent Post-Allowance Fees				Back to Top
1501/2501	1.18(a)	Utility issue fee	1,510.00	755.00
1502/2502	1.18(b)	Design issue fee	860.00	430.00
1503/2503	1.18(c)	Plant issue fee	1,190.00	595.00
1511/2511	1.18(a)	Reissue issue fee	1,510.00	755.00
1504	1.18(d)	Publication fee for early, voluntary, or normal publication	300.00	
1505	1.18(d)	Publication fee for republication	300.00	
Patent Maintenance Fees				Back to Top
1551/2551	1.20(e)	Due at 3.5 years	980.00	490.00
1552/2552	1.20(f)	Due at 7.5 years	2,480.00	1,240.00
1553/2553	1.20(g)	Due at 11.5 years	4,110.00	2,055.00
1554/2554	1.20(h)	Surcharge - 3.5 year - Late payment within 6 months	130.00	65.00
1555/2555	1.20(h)	Surcharge - 7.5 year - Late payment within 6 months	130.00	65.00
1556/2556	1.20(h)	Surcharge - 11.5 year - Late payment within 6 months	130.00	65.00
1557	1.20(i)(1)	Surcharge after expiration - Late payment is unavoidable	700.00	
1558	1.20(i)(2)	Surcharge after expiration - Late payment is unintentional	1,640.00	
Miscellaneous Patent Fees				Back to Top
1801/2801	1.17(e)	Request for continued examination (RCE) (see 37 CFR 1.114)	810.00	405.00
1808	1.17(i)	Processing fee, except in provisional applications	130.00	
1803	1.17(i)	Request for voluntary publication or republication	130.00	
1802	1.17(k)	Request for expedited examination of a design application	900.00	
1804	1.17(n)	Request for publication of SIR - Prior to examiner's action	920.00*	
1805	1.17(o)	Request for publication of SIR - After examiner's action	1,840.00*	
1806	1.17(p)	Submission of an Information Disclosure Statement	180.00	
1807	1.17(q)	Processing fee for provisional applications	50.00	
1809/2809	1.17(r)	Filing a submission after final rejection (see 37 CFR 1.129(a))	810.00	405.00
1810/2810	1.17(s)	For each additional invention to be examined (see 37 CFR 1.129(b))	810.00	405.00
1814/2814	1.20(d)	Statutory disclaimer	140.00	70.00

* Reduced by basic filing fee paid.

Post Issuance Fees				Back to Top
1811	1.20(a)	Certificate of correction	100.00	
1812	1.20(c)(1)	Request for ex parte reexamination	2,520.00	
1813	1.20(c)(2)	Request for inter partes reexamination	8,800.00	
1821/2821	1.20(c)(3)	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination	220.00	110.00
1822/2822	1.20(c)(4)	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	52.00	26.00
1814/2814	1.20(d)	Statutory disclaimer	140.00	70.00
Patent Extension of Time Fees				Back to Top
1251/2251	1.17(a)(1)	Extension for response within first month	130.00	65.00
1252/2252	1.17(a)(2)	Extension for response within second month	490.00	245.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,110.00	555.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,730.00	865.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,350.00	1,175.00
Patent Appeals/Interference Fees				Back to Top
1401/2401	41.20(b)(1)	Notice of appeal	540.00	270.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	540.00	270.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,080.00	540.00
Patent Petition Fees				Back to Top
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	540.00	270.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,620.00	810.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority, or for filling a request for the restoration of the right of priority	1,410.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of term reduced	400.00	
1457	1.20(j)(1)	Extension of term of patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	
PCT Fees - National Stage				Back to Top

1631/2631	1.492(a)	Basic National Stage Fee	330.00	165.00
1640/2640	1.492(b)(1)	National Stage Search Fee - U.S. was the ISA or IPEA and all claims satisfy PCT Article 33(1)-(4)	0.00	0.00
1641/2641	1.492(b)(2)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(3)	National Stage Search Fee - search report prepared and provided to USPTO	430.00	215.00
1632/2632	1.492(b)(4)	National Stage Search Fee - all other situations	540.00	270.00
1643/2643	1.492(c)(1)	National Stage Examination Fee - U.S. was the ISA or IPEA and all claims satisfy PCT Article 33(1)-(4)	0.00	0.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	220.00	110.00
1614/2614	1.492(d)	Claims - extra independent (over three)	220.00	110.00
1615/2615	1.492(e)	Claims - extra total (over 20)	52.00	26.00
1616/2616	1.492(f)	Claims - multiple dependent	390.00	195.00
1681/2681	1.492(j)	National Stage Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	270.00	135.00
1617/2617	1.492(h)	Search fee, examination fee or oath or declaration after thirty months from priority date	130.00	65.00
1618	1.492(i)	English translation after thirty months from priority date	130.00	
PCT Fees - International Stage				Back to Top
1601	1.445(a)(1)	Transmittal fee	240.00	
1602	1.445(a)(2)	Search fee - regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16)	2,080.00	
1604	1.445(a)(3)	Supplemental search fee when required, per additional invention	2,080.00	
1605	1.482(a)(1)	Preliminary examination fee - U.S. was the ISA	600.00	
1606	1.482(a)(1)	Preliminary examination fee - U.S. was not the ISA	750.00	
1607	1.482(a)(2)	Supplemental examination fee per additional invention	600.00	
1619		Late payment fee	variable	
1621	1.445(a)(4)	Transmitting application to Intl. Bureau to act as receiving office	240.00	
PCT Fees to Foreign Offices **				Back to Top
1701		International filing fee (first 30 pages - filed in paper with PCT EASY zip file or electronically without PCT EASY zip file)	1,119.00	
1710		International filing fee (first 30 pages) - filed electronically with PCT Easy zip file	1,028.00	
1702		International filing fee (first 30 pages)	1,210.00	
1703		Supplemental fee (for each page over 30)	14.00	
1704		International search (EPO)	2,164.00	
1712		International search (IPAU)	1,091.00	
1709		International search (KIPO)	609.00	

1705		Handling fee	171.00	
1706		Handling Fee - 90% reduction, if applicants meets criteria specified at: **http://www.wipo.int/pct/en/fees/fee_reduction.pdf**	17.10	
1708		Sequence listing and/or sequence-related table on electronic medium only (PCT AI Section 801)	5,600.00	

** PCT Fees to Foreign Offices subject to periodic change due to fluctuations in exchange rate. Refer to the **Official Gazette** of the United States Patent and Trademark Office for current amounts.

Patent Service Fees Back to Top

8001	1.19(a)(1)	Printed copy of patent w/o color, delivery by USPS, USPTO Box, or electronic means	3.00	
8003	1.19(a)(2)	Printed copy of plant patent in color	15.00	
8004	1.19(a)(3)	Color copy of patent (other than plant patent) or SIR containing a color drawing	25.00	
8005	1.19(a)(1)	Patent Application Publication (PAP)	3.00	
8007	1.19(b)(1)(i)(A)	Copy of patent application as filed	20.00	
8008	1.19(b)(1)(i)(B)	Copy of patent-related file wrapper and contents of 400 or fewer pages, if provided on paper	200.00	
8009	1.19(b)(1)(i)(C)	Additional fee for each additional 100 pages of patent-related file wrapper and (paper) contents, or portion thereof	40.00	
8010	1.19(b)(1)(i)(D)	Individual application documents, other than application as filed, per document	25.00	
8011	1.19(b)(1)(ii)(B)	Copy of patent-related file wrapper and contents if provided electronically or on a physical electronic medium as specified in 1.19(b)(1)(ii)	55.00	
8012	1.19(b)(1)(ii)(C)	Additional fee for each continuing physical electronic medium in single order of 1.19(b)(1)(ii)(B)	15.00	
8041	1.19(b)(2)(i)(A)	Copy of patent-related file wrapper contents that were submitted and are stored on compact disk or other electronic form (e.g., compact disks stored in Artifact folder), other than as available in 1.19(b)(1); first physical electronic medium in a single order	55.00	
8042	1.19(b)(2)(i)(B)	Additional fee for each continuing copy of patent-related file wrapper contents as specified in 1.19(b)(2)(i)(A)	15.00	
8043	1.19(b)(2)(ii)	Copy of patent-related file wrapper contents that were submitted and are stored on compact disk, or other electronic form, other than as available in 1.19(b)(1); if provided electronically other than on a physical electronic medium, per order	55.00	
8013	1.19(b)(3)	Copy of office records, except copies of applications as filed	25.00	
8014	1.19(b)(4)	For assignment records, abstract of title and certification, per patent	25.00	
8904	1.19(c)	Library service	50.00	
8015	1.19(d)	List of U.S. patents and SIRs in subclass	3.00	
8016	1.19(e)	Uncertified statement re status of maintenance fee payments	10.00	

8017	1.19(f)	Copy of non-U.S. document	25.00	
8050	1.19(g)	Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits	AT COST	
8019	1.21(d)	Local delivery box rental, annually	50.00	
8020	1.21(e)	International type search report	40.00	
8902	1.21(g)	Self-service copy charge, per page	0.25	
8021	1.21(h)	Recording each patent assignment, agreement or other paper, per property	40.00	
8022	1.21(i)	Publication in Official Gazette	25.00	
8023	1.21(j)	Labor charges for services, per hour or fraction thereof	40.00	
8024	1.21(k)	Unspecified other services, excluding labor	AT COST	
8025	1.21(l)	Retaining abandoned application	130.00	
8026	1.21(n)	Handling fee for incomplete or improper application	130.00	
8027	1.296	Handling fee for withdrawal of SIR	130.00	
Patent Enrollment Fees				Back to Top
9001	1.21(a)(1)(i)	Application fee (non-refundable)	40.00	
9003	1.21(a)(2)	Registration to practice or grant of limited recognition under §11.9(b) or (c)	100.00	
9004	1.21(a)(9)(ii)	Reinstatement to practice	100.00	
9005	1.21(a)(4)	Certificate of good standing as an attorney or agent	10.00	
9006	1.21(a)(4)	Certificate of good standing as an attorney or agent, suitable for framing	20.00	
9010	1.21(a)(1)(ii)(A)	For test administration by commercial entity	200.00	
9011	1.21(a)(1)(ii)(B)	For test administration by the USPTO	450.00	
9012	1.21(a)(5)(i)	Review of decision by the Director of Enrollment and Discipline under §11.2(c)	130.00	
9013	1.21(a)(5)(ii)	Review of decision of the Director of Enrollment and Discipline under §11.2(d)	130.00	
9014	1.21(a)(10)	Application fee for person disciplined, convicted of a felony or certain misdemeanors under §11.7(h)	1,600.00	
9015	1.21(a)(7)(i)	Annual fee for registered attorney or agent in active status	118.00	
9016	1.21(a)(7)(ii)	Annual fee for registered attorney or agent in voluntary inactive status	25.00	
9017	1.21(a)(7)(iii)	Requesting restoration to active status from voluntary inactive status	50.00	
9018	1.21(a)(7)(iv)	Balance of annual fee due upon restoration to active status from voluntary inactive status	93.00	
9019	1.21(a)(8)	Annual fee for individual granted limited recognition	118.00	
9020	1.21(a)(9)(i)	Delinquency fee for annual fee	50.00	

9024	1.21(k)	Unspecified other services,excluding labor	AT COST	<Back to top>
		GENERAL FEES		
Finance Service Fees				Back to Top
9201	1.21(b)(1) or 2.6(b)(13)(i)	Establish deposit account	10.00	
9202	1.21(b)(2) or 2.6(b)(13)(ii)	Service charge for below minimum balance	25.00	
9202	1.21(b)(3)	Service charge for below minimum balance restricted subscription deposit account	25.00	
9101	1.21(m) or 2.6(b)(12)	Processing each payment refused or charged back	50.00	
Computer Service Fees				Back to Top
8031/8531		Computer records	AT COST	
Trademark Processing Fees ***				Back to Top
6001	2.6(a)(1)(i)	Application for registration, per international class (paper filing)	375.00	
7001	2.6(a)(1)(ii)	Application for registration, per international class (electronic filing, TEAS application)	325.00	
7007	2.6(a)(1)(iii)	Application for registration, per international class (electronic filing, TEAS Plus application)	275.00	
6002/7002	2.6(a)(2)	Filing an Amendment to Allege Use under §1(c), per class	100.00	
6003/7003	2.6(a)(3)	Filing a Statement of Use under §1(d)(1), per class	100.00	
6004/7004	2.6(a)(4)	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under §1(d)(1), per class	150.00	
6005/7005	2.6(a)(15)	Petitions to the Director	100.00	
6006	2.6(a)(19)	Dividing an application, per new application (file wrapper) created	100.00	
6008/7008	2.6(a)(1)(iv)	Additional fee for application that doesn't meet TEAS Plus filing requirements, per class	50.00	
6201/7201	2.6(a)(5)	Application for renewal, per class	400.00	
6203/7203	2.6(a)(6)	Additional fee for filing renewal application during grace period, per class	100.00	
6204	2.6(a)(21)	Correcting a deficiency in a renewal application	100.00	
6205/7205	2.6(a)(12)	Filing §8 affidavit, per class	100.00	
6206/7206	2.6(a)(14)	Additional fee for filing §8 affidavit during grace period, per class	100.00	
6207	2.6(a)(20)	Correcting a deficiency in a §8 affidavit	100.00	
6208/7208	2.6(a)(13)	Filing §15 affidavit, per class	200.00	
6210	2.6(a)(7)	Publication of mark under §12(c), per class	100.00	
6211	2.6(a)(8)	Issuing new certificate of registration	100.00	
6212/7212	2.6(a)(9)	Certificate of correction, registrant's error	100.00	
6213	2.6(a)(10)	Filing disclaimer to registration	100.00	

6214/7214	2.6(a)(11)	Filing amendment to registration	100.00	
6401/7401	2.6(a)(16)	Petition for cancellation, per class	300.00	
6402/7402	2.6(a)(17)	Notice of opposition, per class	300.00	
6403/7403	2.6(a)(18)	Ex parte appeal, per class	100.00	

Trademark Madrid Protocol Fees *** Back to Top

6901/7901	7.6(a)(1)	Certifying an International application based on single application or registration, per class	100.00	
6902/7902	7.6(a)(2)	Certifying an International application based on more than one basic application or registration, per class	150.00	
6903/7903	7.6(a)(3)	Transmitting a Request to Record an Assignment or restriction under 7.23 or 7.24	100.00	
6904/7904	7.6(a)(4)	Filing a Notice of Replacement, per class	100.00	
6905/7905	7.6(a)(5)	Filing an affidavit under 71 of the Act, per class	100.00	
6906/7906	7.6(a)(6)	Surcharge for filing affidavit under 71 of the Act during grace period, per class	100.00	
6907/7907	7.6(a)(7)	Transmitting a subsequent designation	100.00	

Trademark International Application Fees *** Back to Top

7951	7.7(1)	International application fee	Reference CFR 7.7 for payment of fees to International Bureau (IB) and IB calculator at: **http://www.wipo.int/madrid/en**.
7952	7.14(c)	Correcting irregularities in an International application	
7953	7.21	Subsequent designation fee	
7954	7.23	Recording of an assignment of an international registration under 7.23	

*** The 7000 series fee code (e.g., 7001, 7002, etc.) is used for electronic filing via TEAS, which is available at **www.uspto.gov/teas/**.

Trademark Service Fees Back to Top

8501	2.6(b)(1)	Printed copy of registered mark, delivery by USPS, USPTO Box, or electronic means	3.00	
8503	2.6(b)(4)(i)	Certified copy of registered mark, with title and/or status, regular service	15.00	
8504	2.6(b)(4)(ii)	Certified copy of registered mark, with title and/or status, expedited local service	30.00	
8507	2.6(b)(2)	Certified copy of trademark application as filed	15.00	
8508	2.6(b)(3)	Certified or uncertified copy of trademark-related file wrapper and contents	50.00	
8513	2.6(b)(5)	Certified or uncertified copy of trademark document, unless otherwise provided	25.00	
8514	2.6(b)(7)	For assignment records, abstracts of title and certification per registration	25.00	
8902	2.6(b)(9)	Self-service copy charge, per page	0.25	
8521	2.6(b)(6)	Recording trademark assignment, agreement or other paper, first mark per document	40.00	

8522	2.6(b)(6)	For second and subsequent marks in the same document	25.00	
8523	2.6(b)(10)	Labor charges for services, per hour or fraction thereof	40.00	
8524	2.6(b)(11)	Unspecified other services, excluding labor	AT COST	
Fastener Quality Act Fees				Back to Top
6991	2.7(a)	Recordal application fee	20.00	
6992	2.7(b)	Renewal application fee	20.00	
6993	2.7(c)	Late fee for renewal application	20.00	
6994	2.7(a)	Application fee for reactivation of insignia, per request	20.00	

Some content linked to on this page may require a plug-in for **Adobe Acrobat Reader**

KEY: =online business system ($) =fees =forms =help =laws/regulations =definition (glossary)

Is there a question about what the USPTO can or cannot do that you cannot find an answer for? Send questions about USPTO programs and services to the **USPTO Contact Center (UCC).** *You can suggest USPTO webpages or material you would like featured on this section by E-mail to the* **webmaster@uspto.gov**. *While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-01-08

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/828285** Patent No.: **7050728**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/David M. Gray/
SPE

2852
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Hirotaka NAKAGAWA et al.
Application No. 10/828,286
Filed: April 21, 2004
For: METHOD, DEVICE AND PROGRAM FOR MANAGING VOLUME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed May 16, 2005 and supplemented on June 10, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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 7/18/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED
AUG 23 2005
Technology Center 2100

In re Application of:
Daiki NAKATSUKA
Application No. 10/828,287
Filed: April 21, 2004
For: COMPUTER SYSTEM FOR ALLOCATING STORAGE AREA TO COMPUTER BASED ON SECURITY LEVEL

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on January 27, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of January 27, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

5-16-08

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,304,713
Inventor(s) : Hung Meng Yi
Issued : Dec. 4, 2007
Title : LIQUID CRYSTAL DISPLY PANEL WITH MARKS FOR CHECKING CUTTING PRECISION BY VISUAL INSPECTION
Docket No. : 26109

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
40l 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.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Nath & Associates
112 South West Street
Alexandria, VA 22314

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

2-12-09

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
uspto.gov

Patent No. : 7,304,713 B2
Ser. No. : 10/828,296
Inventor(s) : Hung Meng Yi
Issued : December 4, 2007
Title : LIQUID CRYSTAL DISPLAY PANEL WITH MARKS FOR CHECKING CUTTING PRECISION BY VISUAL INSPECTION
Docket No. : 26109

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 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 is hereby again denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Nath & Associates
112 South West Street
Alexandria, VA 22314

ej.

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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: Ryoji FURUHASHI et al.

Application No. 10/828,306
Filed: April 21, 2004
For: INFORMATION PROCESSING SYSTEM AND MANAGEMENNT DEVICE

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition(s) filed May 18, 2005 and supplemented on June 10, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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MATTINGLY STANGER MALUR & BRUNDIDGE PC
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VA 22314

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MAR 17 2006
OFFICE OF PETITIONS

In re Application of	:
Ryoji Furuhashi et al	:
Application No. 10/828,306	: DECISION GRANTING PETITION
Filed: April 21, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501.43789X00	:

This is a decision on the petition, filed March 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\828306.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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

7-26-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,985,307
Ser. No. : 10/828,310
Inventor(s) : Satoshi Do
Issued : January 10, 2006

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 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

James R. Burdett, Venable LLP
P.O. Box 34385
Washington, DC 20043-9998

ej

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Okumura et al.	:	
Application No. 10/828,331	:	DECISION GRANTING PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 038959.02	:	

This is a decision on the petition, filed August 31, 2004, requesting that the above-identified application be accorded a filing date of April 21, 2004, with Figure 10 described in the specification as part of the original disclosure.

On April 21, 2004, applicants filed the above-identified application. On August 11, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of April 21, 2004, and advising applicants that Figure 10 appeared to have been omitted.

In response, on August 31, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "73 shts fml drawings (Figs. 1-81)" on April 21, 2004. Additionally, applicants submitted one sheet of drawings, containing Figure 10 with the present petition.

Upon review of the record, Figure 10, deposited on April 21, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 21, 2004, included Figure 10, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 10, was complete on filing and will be granted a filing date of April 21, 2004.

Accordingly, the petition is granted and the application will be accorded a filing date of April 21, 2004, with Figure 10 as part of the original disclosure.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. No petition fee is necessary. Therefore, the $130.00 petition fee will be refunded to Deposit Account No. 15-0461.

The Office of Initial Patent Examination is directed **to accord the application a filing date of April 21, 2004**, using Figures 1-9 and 11-81 submitted on that date, and Figure 10 submitted on August 31, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BEVER, HOFFMAN & HARMS, LLP
1432 CONCANNON BLVD
BLDG G
LIVERMORE CA 94550-6006

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SEP 27 2006
OFFICE OF PETITIONS

Patentee: King Tsu-Jae	:	
Application Number: 10/828,356	:	
Patent: 6,956,262	:	
Attorney Docket No: PRG2001-5CD3	:	
Filing Date: April 19, 2004	:	
Issue Date: October 18, 2005	:	DECISION ON PETITION
	:	

This is a decision on the petition filed August 7, 2006 under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

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.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Any questions concerning the issuance of the Certificate of Correction should be

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Jeanette S. Harms
Bever, Hoffman & Harms, LLP
2099 Gateway Place, Suite 320
San Jose, CA 95110-1017

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAXTER HEALTHCARE CORPORATION
ONE BAXTER PARKWAY
DF2-2E
DEERFIELD IL 60015

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OFFICE OF PETITIONS

In re Application of Westberg et al. Application No. **10/828,359** Filed: April 20, 2004 Attorney Docket No. F-5495 DIV (0360-0172.01)	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed January 18, 2006, requesting that the above-identified application be accorded a filing date of April 20, 2004, rather than the presently accorded filing date of April 17, 2004.

Petitioner alleges that the application was deposited in Express Mail service on April 20, 2004. The petition is accompanied by a copy of Express Mail label No. EV318693190US. The Express Mail label contains a "date in" of April 14, 2004. However, the United States Postal Service Track & Confirm information indicates that the USPS accepted a package, bearing Express Mail label No. EV318693190US on April 20, 2004, at 5:25 PM in Brookfield, WI 53045. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

This Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to April 20, 2004, and mail a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/828,359	04/20/2004	3762	900	F-5495 DIV (0360-0172.01)	41	6	1

CONFIRMATION NO. 4891

CORRECTED FILING RECEIPT

OC000000018314427

44926
BAXTER HEALTHCARE CORPORATION
ONE BAXTER PARKWAY
DF2-2E
DEERFIELD, IL 60015

Date Mailed: 03/17/2006

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)

Tom Westberg, Gurnee, IL;
Rohit Vishnoi, Deerfield, IL;
Mark R. Vandlik, Munoelein, IL;

Assignment For Published Patent Application

Baxter International Inc.

Power of Attorney: The patent practitioners associated with Customer Number **44926**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/828,359

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fluid pressure actuated blood pumping systems and methods with continuous inflow and pulsatile outflow conditions

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/828,384	04/19/2004	Jeffrey Clark Wicks	2095/US/2

CONFIRMATION NO.
4818

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

Date Mailed: October 20, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on October 20, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ■ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. □ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. □ The Application was published on March 25, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040057566A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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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	:	
Khurram Muhammad, et. al.	:	
Application No. 10/828,386	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. TI-34777	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2008, to revive the above-identified application.

The application became abandoned for failure to file a timely response to the non-final Office action mailed October 18, 2006. A Notice of Abandonment was mailed on April 30, 2007.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, a specification and six (6) sheets of replacement drawings containing Figures 1-6; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2611 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

MAIL

AUG 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Modesto Garcia :
Application No. 10/828,388 : DECISION ON PETITION
Filed: April 20, 2004 : TO MAKE SPECIAL
For: **THROWING DISC TOY** :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed April 20, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement executed by Mr. Garcia attesting to his age which is sufficient evidence in accordance with MPEP §708.02, IV.

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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OFFICE OF PETITIONS

In re Application of
Westberg et al.
Application No. 10/~~282,359~~ 10828389
Filed: April 20, 2004
Attorney Docket No. F-5495 DIV (0360-0172.01)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed January 18, 2006, requesting that the above-identified application be accorded a filing date of April 20, 2004, rather than the presently accorded filing date of April 17, 2004.

Petitioner alleges that the application was deposited in Express Mail service on April 20, 2004. The petition is accompanied by a copy of Express Mail label No. EV318693190US. The Express Mail label contains a "date in" of April 14, 2004. However, the United States Postal Service Track & Confirm information indicates that the USPS accepted a package, bearing Express Mail label No. EV318693190US on April 20, 2004, at 5:25 PM in Brookfield, WI 53045. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

This Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to April 20, 2004, and mail a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/8/09

TO SPE OF : ART UNIT 2862 Assouad Patrick (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828839 Patent No.: 6963277

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. _____

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 J. Assouad/
SPE

2862
Art Unit

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/20/2010

Applicant	: Hyeong-seok Ha	: DECISION ON REQUEST FOR
Patent Number	: 7646811	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/828,417	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1236** 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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WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR MI 48105

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Berchielli, et al. :
Filed: April 20, 2004 : ON PETITION
Application No. 10/828,419 :
Atty. Dkt. No.: PC25684A :

This decision is in response to the "Petition in Response to Notice of Incomplete Nonprovisional Application," filed July 18, 2005, which is being treated as a petition to accord the above-identified application a filing date of April 20, 2004 with one drawing page as part of the application as originally filed.

The application was filed April 20, 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 one drawing sheet. Petitioners have included as proof of mailing and proof of receipt of the drawing sheet a return postcard date stamped by the Office on April 20, 2004. A copy of the drawing sheets purportedly filed with the application on April 20, 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 Notice is hereby WITHDRAWN and the petition to accord the application a filing date of April 20, 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. A refund of the previously submitted petition fee has been requested from the Finance Office, Refund Branch.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 20, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

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APR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Steingraber et al.	:	
Application No. 10/828,432	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 1484-00385	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 11, 2005. A Notice of Abandonment was mailed on March 22, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Vandlik et al.	:	
Application No. 10/828,440	:	DECISION ON PETITION
Filed: 17 April, 2004	:	
Attorney Docket No. F-5482 DIV	:	
2 (0360-0159.	:	

This is a decision on the petition, filed on 18 January, 2006, under 37 CFR 1.10(d), which is treated as a petition requesting that the above-identified application be accorded a filing date of 20 April, 2004, rather than the presently-accorded filing date of 17 April, 2004.

The petition is dismissed.

Petitioners allege that the application was deposited in Express Mail service on 20 April, 2004.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

[1] See 37 CFR 1.6(a).

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

Petitioner asserts that the above-identified application was deposited with Express Mail Post Office to Addressee service of the USPS on 20 April, 2004.

The showing of record has been considered, but is not persuasive. In regard to 37 CFR 1.10(d), petitioner has not presented corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for that day. If the error was due to the USPS entering the wrong date on the Express Mail label, petitioners should request a letter from the USPS stating that the correct date of deposit is 20 April, 2004, and explaining why the error occurred. Additionally, petitioners may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an

entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application.

As such, since the transmittal letter for the application was obviously created prior to the mailing of the application, it therefore cannot serve as evidence created after and within one business day of the date of deposit of the application in Express Mail. Further, petitioners are reminded that there is no provision in the rules for use of a certificate of mailing when application papers are sent by Express Mail service.[2]

It is suggested that petitioners obtain a statement from the USPS stating that the correct date of deposit of the Express Mail envelope in question (*i.e.*, EV318693209US) was deposited in Express Mail Post Office to Addressee Service on 20 April, 2004. This statement should be provided with any renewed petition.

Any request for reconsideration (no further petition fee is required) must be filed within TWO MONTHS of the date of this decision in order to be considered timely [37 CFR 1.181(f)]. The request should be addressed as follows:

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

---

[2] The requirement of 37 CFR 1.10(c) for a certificate of mailing has been waived by the Commissioner. See 1174 O.G. Pat. Of. 92 (May 16, 1995).

The address in the petition is different than the correspondence address of record. A copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record.

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

cc: Cook, Alex, McFarron, Manzo,
Cummings & Mehler, Ltd.
200 West Adams Street, Suite 2850
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Vandlik et al.	:	
Application No. 10/828,440	:	DECISION ON PETITION
Filed: 20 April, 2004	:	
Attorney Docket No. F-5482 DIV	:	
2 (0360-0159.	:	

This is a decision on the renewed petition, filed on 27 March, 2006, which is treated as a petition under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of 20 April, 2004, rather than the presently-accorded filing date of 17 April, 2004.

The petition is **granted**.

Petitioners again aver that the application was deposited in Express Mail service on 20 April, 2004. In support, on 27 March, 2006, petitioners supplied a copy of USPS Internet Track & Confirm report for Express Mail Label No. EV318693209US (the same Express Mail number found on the itemized application cover sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "4-17-04", a review of the USPS Track and Confirm Internet database shows that this Express Mail item was accepted by the USPS on 20 April, 2004.

In view of the above, the correct date of deposit in Express Mail is 20 April, 2004.

In view of the above, the petition is granted. No fee is required and none has been charged.

The address in the petition is different than the correspondence address of record. A copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 20 April, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Cook, Alex, McFarron, Manzo,
Cummings & Mehler, Ltd.
200 West Adams Street, Suite 2850
Chicago IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2006

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828451 Patent No.: 6,991,826

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 1 1 2008

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Robert G. Demoor :
Application No. 10/828,452 : ON PETITION
Filed: April 20, 2004 :
Attorney Docket No. TI-35547 :

This is a decision on the petition filed April 4, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 24, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/16/07

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828461 Patent No.: 7086739

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

[signature]
SPE

Art Unit

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAIL

SEP 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
John Lair
Application No. 10/828,480
Filed: April 21, 2004
For: **WIRELESS HEADSET FOR COMMUNICATIONS DEVICE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 19, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
703-305-4778

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Paper No.

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR, MI 48105

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Lorenz et al. :
Application No. 10/828,488 :
Filed: April 20, 2004 :
For: PROCESS FOR FORMING :
AMORPHOUS ATORVASTATIN : ON PETITION

This is a decision on the petition in Response to Notice of Incomplete Nonprovisional Application, filed October 8, 2004, requesting the application be accorded a filing date of April 20, 2004, including 3 pages of drawings described in the specification.

The petition is **granted**.

The application was filed on April 20, 2004. However, on September 23, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that 3 pages of drawings were originally filed with the application on April 20, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 3 pages of drawings (Fig. 1-14) on April 20, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 3 pages of drawings on April 20, 2004. Petitioner has also re-submitted 3 pages of drawings, comprising Figures 1 - 3, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 3 pages of drawings, supplied on October 8, 2004, will be used for examination purposes.

No fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of April 20, 2004, and an indication that 3 pages of drawings were present on filing, using the 3 pages of drawings filed on October 8, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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PFIZER INC.
PATENT DEPARTMENT
Building 114 M/S 114
EASTERN POINT ROAD
GROTON, CT 06340

Mail Date: 04/20/2010

Applicant	: Douglas A. Lorenz	: DECISION ON REQUEST FOR
Patent Number	: 7655692	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/828,488	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1464** 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 Peabody, LLP
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

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APR 22 2005
OFFICE OF PETITIONS

In re Application of	:	
Marcel Naas, et al.	:	
Application No. 10/828,497	:	DECISION GRANTING
Filed: April 21, 2004	:	PETITION
Attorney Docket No. 741439-13	:	

BEST AVAILABLE COPY

This is a decision on the petition filed November 12, 2004.

The petition is **GRANTED**.

The application was filed on April 21, 2004. However, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" on September 22, 2004 stating that pages 32-36 of the specification, including the Abstract appear to have been omitted.

In response, applicant filed the present petition and a copy of the applicant's postcard receipt acknowledging receipt of 36 pages of specification, claims, and abstract on April 21, 2004 in the United States Patent and Trademark Office (USPTO). Additionally, applicants resubmitted pages 32-36 of the specification and the Abstract with the present petition.

MPEP 503 in pertinent part states:

> "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Upon review of the record, pages 32-36 of the specification and the Abstract, deposited on April 21, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers were deposited on April 21, 2004, and were subsequently misplaced in the USPTO. Therefore, the application, including pages 32-36 of the specification and the Abstract, was complete on filing and will be granted a filing date of April 21, 2004.

No petition fee is required.

This application file is being referred to the Office of Initial Patent Examination for further **processing with a filing date of April 21, 2004, with an indication on the filing receipt that 36 pages of specification, claims, and abstract were present on filing and using the Abstract and pages 32-36 of the specification supplied with the instant petition.**

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

OIPE
NOV 12 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)
Marcel MAAS et al.	)
Application No. 10/828,497	) Art Unit: 3624
Filed: April 21, 2004	) Confirmation No. 4289
For: CONTROLLING RESOURCE GROUP	)
TRANSFERS FOR REPO BASKET	)
TRANSACTION SYSTEMS	) Date: November 11, 2004

PETITION IN RESPONSE TO OMITTED ITEMS

U.S. Patent and Trademark Office
220 20th Street, South
Customer Window, Mail Stop Missing Parts
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application mailed September 22, 2004, enclosed herewith is a copy of the entire specification, including pages 32-26 and the Abstract for the above-identified application.

Applicant contends that the above-noted omitted items were in fact deposited in the U.S. Patent and Trademark Office with the Nonprovisional application papers on April 21, 2004. Submitted herewith is a copy of the U.S. Patent Office stamped postcard, which specifically shows item No. "3. 36 pages of specification, claims, and abstract".

The Commissioner is hereby authorized to charge the $130.00 petition fee or any fees connected with this filing which may be required now, or credit any

overpayment to Deposit Account No. 19-2380.

Respectfully submitted,

Marc S. Kaufman
Registration No. 35,212

NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004-2128

(202) 585-8000

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OIPE JC98
NOV 12 2004
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

This will acknowledge receipt of the following:
1. Utility Application Transmittal (duplicate)
2. Application Data Sheet
3. 36 pages of specification, claims, and abstract
4. 6 Sheets of formal drawings (Figs.1-8)

OIPE JC25
APR 21 2004
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OI
APR 21 2004
PATENT & TRADEMARK OFFICE

In re the New Utility Patent Application of: Marcel NAAS, et al.
Based On European Application: 03025450.2 Filed: November 5, 2003
For: CONTROLLING RESOURCE GROUP TRANSFERS FOR REPO BASKET TRANSACTION SYSTEMS
Docket No. 741439-13
Due Date: November 5, 2004
MSK/djs Date: April 21, 2004
Attorney No. 8687

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NIXON & PEABODY
401 9th Street, NW
Suite 900
Washington, D.C. 20004-2128

In re Application of:	:	
SCHEIRS, John, et al.	:	DECISION
Application No: 10/828,504	:	
Filing Date: 21 April 2004	:	
Attorney's Docket No.: 743414-15	:	
For: LAMINATED GLASS	:	

This decision is issued in response to the "Request For Retaining Application Under 37 CFR 1.21(l) filed on 20 April 2005. The submission included the $130 retention fee.

BACKGROUND

On 21 April 2004 applicants filed the present U.S. nonprovisional application under 35 U.S.C. 111(a). The Application Data Sheet (ADS) filed with the application identified the application as a continuation in part of international application PCT/AU03/01399.

On 20 April 2005, applicants filed the request considered herein. The request asks that the United States Patent And Trademark Office (USPTO) retain the parent international application, PCT/AU03/01399.

DISCUSSION

37 CFR 1.21(l) sets forth the fee for "processing and retaining any application abandoned pursuant to § 1.53(f), unless the basic filing fee (§ 1.16) has been paid." 37 CFR 1.53(f), by its express terms, pertains only to U.S. nonprovisional applications. These rules do not apply to an international application. Accordingly, applicants' request for the USPTO to retain international application PCT/AU03/01399 is not properly granted.

It is noted that PCT Rule 93.1 requires the receiving Office to retain the records pertaining to an international application for at least 10 years from the international filing date, and that PCT Rule 93.2 requires the International Bureau to keep the international application file for at least 30 years from the date of receipt of the record copy.

CONCLUSION

The request for retention under 37 CFR 1.21(l) is **DISMISSED** without prejudice.

Because 37 CFR 1.21(l) is not applicable in the present circumstances, the $130 retention fee submitted by applicants will be refunded to Deposit Account No. 19-2380.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Christopher T. Szeto	:	DECISION ON REQUEST
Application No. 10/828,513	:	TO WITHDRAW FROM
Filed: April 19, 2004	:	RECORD
Attorney Docket No. 017887-012800US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on August 23, 2005.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer Number 20350 have been revoked by the assignee of the patent application, on June 14, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

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PHILIP H. ALBERT
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Szeto et al.	:	DECISION ON PETITION
Application No. 10/828,514	:	TO WITHDRAW
Filed: April 19, 2004	:	FROM RECORD
Attorney Docket No. 324212008700	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 22, 2005 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO
C/O MOFO PALO ALTO
755 Page Mill Road
Palo Alto CA 94304

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/828,524	04/05/2004	1754	1382	ARC-14661-2	6	42	4

CONFIRMATION NO. 4320

UPDATED FILING RECEIPT

OC000000014929429

25186
NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

Date Mailed: 01/11/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bishun N. Khare, Fremont, CA;
Meyya Meyyappan, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25186**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/828,524

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Functionalization of carbon nanotubes

Preliminary Class

423

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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ATTN: PATENT COUNSEL
MAIL STOP 202A-4
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OFFICE OF PETITIONS

In re Application of :
Bishun N. Khare, et al. :
Application No. 10/828,524 : DECISION GRANTING PETITION
Filed: April 5, 2004 :
Attorney Docket No. ARC-14661-2 :

This is a decision in response to a petition filed December 22, 2004, requesting that the above-identified application be accorded a filing date of April 5, 2004.

A review of the record discloses that USPTO records have been updated to show the correct filing date pursuant to 37 CFR 1.10. A corrected Official Filing Receipt was mailed on January 11, 2005.

Accordingly, the present petition is dismissed as moot. No petition was charged to counsels deposit account, nor is one due.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:
Bishun N. Khare, et al.	:
Application No. 10/828,524	: DECISION ON PETITION
Filed: April 5, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARC-14661-2	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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 Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Bishun N. Khare, et al	:	
Application No. 10/828,524	:	DECISION ON PETITION
Filed: April 5, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARC-14661-2	:	

This is a decision in response to the renewed petition under 37 CFR 1.78(a)(3), filed November 29, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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) 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 application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The petition fee submitted with the present petition is being refunded to counsel's deposit account, since this is a renewed petition and no further petition fee is required.

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 1762 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/828,524	04/05/2004	1762	1382	ARC-14661-2	42	4

CONFIRMATION NO. 4320

CORRECTED FILING RECEIPT

OC000000023838504

25186
NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

Date Mailed: 05/11/2007

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)

Bishun N. Khare, Fremont, CA;
Meyya Meyyappan, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25186**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/320,698 12/13/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/828,524

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Functionalization of carbon nanotubes

Preliminary Class

427

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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HELLER EHRMAN LLP
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7TH FLOOR
SAN DIEGO CA 92122

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
William E. KcKinzie, III	:	DECISION ON PETITION
Application No. 10/828,542	:	
Filed: 19 April, 2004	:	
Atty Docket No. 42372-00046	:	

This is a decision on the petition, filed on 18 August, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of foreign or international application(s) filed on 19 April, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A projected publication date will be assigned in due course. Petitioner will be notified of this date in a separate correspondence.

The application is being referred to Technology Center Art Unit 2817 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of	:	
William E. McKinzie III	:	
Application No. 10/828,542	:	DECISION ON PETITION
Filed: April 19, 2004	:	TO WITHDRAW
Attorney Docket No. 39588.00002.CIP1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 2817 to await a reply to the final Office action mailed February 22, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: HELLER EHRMAN
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

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PILLSBURY WINTHROP SHAW PITTMAN LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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APR 27 2005

OFFICE OF PETITIONS

In re Application of
Van Ginneken
Application No. 10/828,547
Filed: April 19, 2004
Attorney Dck't. No. 054355-0309380

: ON PETITION

This application has come to the attention of this office by way of the petition under 37 CFR 1.182 or 1.183 filed March 4, 2005, on behalf of Synopsys Inc.(Synopsys) requesting suspension of prosecution pending judicial resolution of the ownership of the above-identified application.

The petition is dismissed.

The unfortunately favorable treatment by the USPTO on February 22, 2005, of the request for revocation and power of attorney filed by Synopsys to Hanyes Beffel & Wofeld LLP at customer No. 36454 is **vacated as granted in error.**

The power of attorney is restored to those counsel at Pillsbury Winthrop associated with customer No. 27498 and the correspondence address is likewise restored to that of customer No. 27498. The USPTO error is regretted. On a one time basis only, a courtesy copy of this decision is being sent to Synopsys. The USPTO will not undertake dual correspondence.

Counsel for Synopsys, and Synopsys itself, are hereby placed on notice that, in the absence of a copy of a final decision from the highest court of competent jurisdiction that unequivocally awards title to Synopsys, or unequivocally finds that Synopsys always owned, the entire right, title, and interest in this application, any further attempt to divert correspondence or otherwise control the prosecution of this application will be regarded as correspondence filed for an improper purpose.

Synopsys' representatives are also placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party

petition or communication other than that specifically provided for by the rules of practice in this or any other application to the Office of Enrollment and Discipline for appropriate action. Under the circumstances of this case, at this time, the USPTO must regard Synopsys as a third party. The USPTO does not wish to become embroiled in any ownership dispute and necessarily remains neutral.

STATUTE AND REGULATION

35 U.S.C. § 152 states that:

> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided for in this title.

35 U.S.C. § 261 states in pertinent part:

> Subject to the provisions of this title, patents shall have the attributes of personal property. Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

37 CFR 1.182 states:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.183 states:

> 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 Commissioner or the Commissioner'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(h).

37 CFR 3.1 states in pertinent part:

> For purposes of this part, the following definitions shall apply:
>
> *Assignment* means a transfer by a party of all or part of its right, title and interest in a patent or patent application...(emphasis in original)

37 CFR 3.21 states in pertinent part:

> An assignment relating to a national patent application must identify the national

patent application by the application number (consisting of the series code and serial number, e.g., 07/123,456).

37 CFR 3.54 states:

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 CFR 3.71 provides that:

(a) Patents — conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
(b) Patents — Assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:

(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

(c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

37 CFR 3.73 provides that:

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.

(b) When an assignee seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Director. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee or by specifying (e.g. copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee.

Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

OPINION

Petitioner Synopsys styles itself as the rightful owner of the above-captioned application in that the above-named inventor is asserted to have been employed by Synopsys from !995 onwards and according to the enclosed copy of his employment contract executed May 17, 1995, any invention that he made during his tenure with Synopsys was automatically conveyed to Synopsys by the terms of the work agreement. Since, petitioner alleges, the inventor made the herein disclosed invention while employed by Synopsys, Synopsys is the true owner of this application. Petitioner further notes the existence of litigation between itself and Magma (the named inventor's current employer) that, *inter alia*, allegedly will resolve the ownership of the above-identified application, and as such, requests that the USPTO defer examination until the ownership issues are resolved, and to that end vacate any outstanding Office action.

The assignment records of the USPTO show that on July 9, 1998, the USPTO recorded at reel 9317 frame 313 an assignment to Magma executed by Van Ginneken on May 4, 1998, against provisional application No. 60/068827 ('827) filed December 24, 1997. Accordingly, that assignment carries to any application claiming benefit of that provisional application. See MPEP 306.01. Here, non provisional application No. 09/054,379 ('379) filed April 2, 1998, and naming Van Ginneken sole as the inventor, claimed benefit of the prior non provisional '827 application. Furthermore, on May 4, 1998, the USPTO recorded at reel 9281 frame 0964 an assignment against the '379 non provisional application executed by Van Ginneken on May 4, 1998, that by its express terms extended "to all continuations.. of said application." In due course the '379 non provisional application issued as U. S. Patent No. 6,453,446 on September 17, 2002, to Magma as the assignee of the entire interest as provided for by 35 U.S.C. § 152 and 37 CFR 3.81(c)(2). That issuance to Magma as the assignee of the entire interest bears the statutory presumption of correctness. See 35 U.S.C. § 282;Arachnid, Inc. v. Merit Industries, Inc., 939 F.2d 1574, 1577 n.2, 19 USPQ2d 1513, 1516, n.2 (Fed. Cir. 1991). Furthermore, application No. 10/134,076 ('076) filed April 24, 2002, as a continuation of the aforementioned '379 application claimed benefit of the '379 and '827 applications and as such the recorded assignment to Magma carried to the '076 application. See MPEP 306. In due course the '076 application issued as U. S. Patent No. 6,725,438 on April 20, 2004, to Magma as the assignee of the entire interest as provided for by 35 U.S.C. § 152. That issuance to Magma as the assignee of the entire interest again bears the statutory presumption of correctness. See 35 U.S.C. § 282; Arachnid, Id. The above-identified application was filed April 19, 2004, as a continuation of the '379 and '076 applications and claims benefit of the prior '827, '379, and '076 applications. It follows that the aforementioned recorded assignments to Magma both carry to the above-identified application, both by way of USPTO practice, and of course, the express statement in the assignment recorded at reel 9281 frame 0964 that such assignment carried to all continuations of the '379 application. See MPEP 306; 306.01.

The assignment records of the USPTO fail to show that Magma has ever further conveyed its entire rights, title, and interest in any of aforementioned applications to Synopsys. As explained in more detail below the alleged "assignment" that was recorded by Synopsys on January 29, 2005, facially lacks adequate identification of any application in the chain so as to be regarded as a proper assignment of that application under the rules of practice before the USPTO, unless and until a court of competent jurisdiction rules otherwise, Magma must be regarded as

the assignee of the entire interest herein. On the record before the USPTO at this time Magma, not Synopsis, is properly regarded as the assignee of the entire interest herein

Under 37 CFR 3.71, the assignee of the *entire interest* may prosecute (or defer prosecution of) an application to the exclusion of the named inventors, or any previous assignee, and also revoke, or appoint, a power of attorney in an application or patent. Pursuant to 37 CFR 3.73(b), that putative assignee must present its showing consonant with 37 CFR 3.71 to the Office, either prior to, or concurrently with, the paper that requests the action. Accordingly, Synopsys must establish that it is the current owner of the entire interest, as the owner–or even the equitable owner-- of only a part interest in an application does not have the sole right to control prosecution of the application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the entire interest in the application or patent. See Goldstein, 16 USPQ2d at 1964.

Inventorship is the starting point for determining ownership, see University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991), and unless, there is an assignment, the USPTO will presume the named inventor to be the owner, see 37 CFR 3.73(a). Inspection of relevant records reveals that a 147 page document facially representing itself as an "assignment" executed May 17, 1995, wherein the named inventor allegedly assigned his rights to Synopsys, was recorded against the instant application on January 28, 2005, at reel 15621 frame 9.

However, as the record does not show that Synopsys is the assignee of the entire interest of the above-identified application within the meaning of the statutes and regulations, the requested relief(s) cannot be granted to Synopsys. The USPTO has consistently interpreted the applicable statutes and regulations relating to the recording of assignment documents in the PTO as applying only to instruments which **on their face** affect title to a patent or *application*. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903). Compare the assignments contemporaneously executed by Van Ginneken that stand recorded against the '827 and '379 applications with the document executed in 1995 by Van Ginneken purported to be an "assignment" of the invention herein filed some 9 years later.

That is, petitioner Synopsys has not shown, and inspection of the proffered "assignment" does not reveal, that Ginneken has assigned his right, title and interest in the above-identified *application* to Synopsys within the meaning of 35 U.S.C. § 261 and 37 CFR §§ 3.1, 3.31, 3.71, 3.73. The documents merely indicate that any invention made by the inventor while he workled for Synopsys was automatically assigned to Synopsys. While petitioner contends that the instant invention was made during the time the inventor was employed by Synopsys, such that Synopsys is the assignee of the entire interest herein, that controversy is properly resolved by the ongoing litigation. Furthermore, the inventor was not employed by Synopsis when each an every application identified in this decision was filed. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat.

1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

Accordingly, since the above-named inventor was clearly not employed by Synopsys when any of the herein identified applications was filed, the USPTO will not (and in any event cannot) determine whether Van Ginneken's position at Synopsys operated to convey his rights in the invention set forth in this application to Synopsys. The petition seeking that the USPTO acknowledge that Synopsys is the assignee of the entire interest, and, in turn, that Synopsys as the assignee of the entire interest may herein intervene in the prosecution of this application to the exclusion of Van Ginneken within the meaning of MPEP 324 and 37 CFR 3.73(b) must be **dismissed**. The unfortunate USPTO recognition of Synopsys as assignee-intervenor and appointment of its own counsel was made in error and is hereby **vacated**.

A distinction must be made between a property right to an "invention," and a property right to a patent *application*, as a given patent *application* may or may not embody that "invention." Insofar as this case is concerned, the relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 *et seq.* Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

While the documents executed by Ginneken (in 1995) were recorded against this application bu Synopsys on January 28, 2005, such recordation as an "assignment" was simply predicated upon the assertions made on the assignment recordation cover sheet tendered by Synopsys pursuant to 37 CFR 3.31. However, as set forth in 37 CFR 3.54, and MPEP 317.03, the recordation of a document proffered as an "assignment" is **not** a determination by the Office of the validity of the document or the effect that document has on the title to an application or patent. As further noted by the foregoing authorities, when, as here, it becomes necessary, the USPTO will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. See also MPEP 324.

Inspection of the "assignment" recorded by Synopsys against this application indicates that it was executed May 17, 1995, which is prior to the filing date of the above-identified application (and of every prior application of which benefit is herein claimed), and, as such, does not specifically identify this application. But see 37 CFR 3.21. Since the above-captioned

application is not identified therein by the application number, as required under 37 CFR 3.21 for an "assignment" to be recorded by the PTO against this application, such cannot be regarded as an "assignment" of the rights in this application. It is also noted that as the "assignment" does not specifically and adequately identify this application and the invention herein, it can not convey a present interest in this application. See In re Aerial Tel. and Power Co., 1912 Dec. Comm'r Pat. 24 (Comm'r Pat. 1912).

The USPTO has long declined to make a determination as to whether a given instrument which purports to be an assignment of the rights to an "invention", operates to convey the rights for a given *application*. See e.g., Ex Parte Lorentz, 1892 C.D. 77, 78 (Comm'r Pat. 1892); Ex Parte Chillingsworth, 1897 C.D. 72 (Comm'r Pat. 1897); Ex parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899); Ex Parte Long, 1903 C.D. 152, 153 (Comm'r Pat. 1903).

As noted in Williamson, id.,:

> This request cannot be granted, for it is well settled that in order to warrant this Office in recognizing an assignee in the prosecution of an application, or in issuing the patent to him, the assignment must clearly identify the particular application referred to[1]... It is possible that the assignment mentioned above has reference to the invention covered by application No. 720,206; but there is no certainty of this and in such matters the Office requires certainty and not mere probability to justify its action (citations omitted).

It is further noted that Ginneken's employment with Synopsys terminated May 1997 according to the Magma pleadings in the aforementioned litigation, which again is prior to earliest date of any prior application of which benefit is herein claimed. Accordingly, there is no basis given or apparent for assuming even in a light most favorable to Synopsys, that the proffered employment contract automatically operated to assign the inventions of any of the applications in this chain to Synopsys and, as such, trumped the other conveyances in this chain of cases signed by Van Ginneken that **on their face** transferred his rights title and interest to Magma. For the reasons given above as to why the 147 page "assignment" recorded against this application on January 28, 2005, fails to establish that Synopsys is the assignee of this application, the recordation of the same 147 pages of "assignment" against parent application No. 10/134,076 on January 28, 2005, and also executed on May 17, 1995, likewise fails to establish that Synopsys is the assignee of that application.

It follows that petitioner has failed to establish its ownership of this application within the meaning of 37 CFR 3.73(b) and MPEP § 324. Based upon the showing of record in this application, Magma retains its right to take action herein. As such, and further in view of the

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[1] 37 CFR 3.11 *et seq.* require that an assignment specifically identify the *application* against which the assignment is to be recorded, which merely codify long-extant PTO requirements. See Williamson, supra; In re Aerial Tel. and Power Co., 1912 C.D. 24 (Comm'r Pat. 1912). Any document that, as here, is executed 9 years prior to the existence of a patent application manifestly fails to comply with the governing regulations for recording an assignment against that application, which require an adequate identification of the application.

fact that petitioner is not a named inventor in this application, petitioner must regarded as a third party with respect to this patent application, and the requested relief cannot be granted.

Third party petitioner is, in essence, seeking to have the PTO make a determination from the proffered documentation, and settle its self created dispute as to the title of this application. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as noted above, the PTO will not permit itself to become embroiled in ownership disputes. If follows that, as the ownership issues pertaining to this application are before a court of competent jurisdiction, the PTO will take no further action in this matter unless and until the ownership issues are demonstrated to have been clearly, and finally, judicially resolved in favor of third party petitioner.

With respect to the request for extraordinary relief under 37 CFR §§ 1.182 or 1.183:

For the reasons noted above, petitioner must be regarded as a third party with respect to this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. A third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991); Hallmark Cards, Inc. v. Lehman, 959 F. Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997). Since third party petitioner has indicated that petitioner is now involved in litigation regarding ownership of the above-identified application, then petitioner tacitly concedes that petitioner has an avenue for seeking relief with respect to the issues raised herein. Petitioner is reminded that a standard principle of statutory construction is that, absent legislative intent to the contrary, when a statute provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n of R.R. Passengers, 414 U.S. 453, 458 (1974). In view of the above-noted litigation, it is not necessary, much less proper, to exercise 37 CFR 1.182 or 1.183 so as to fashion yet another remedy resolving the ownership issues for third party petitioner.

Moreover, even assuming, *arguendo*, that third party petitioner has standing to request relief under 37 CFR 1.182 or 1.183 with respect to this application, the circumstances of this case simply do not warrant suspension of prosecution to await resolution of the ownership issues. It is noted that a party's request for suspension of prosecution is regarded as a failure to act with diligence with possibly adverse consequences for patent term adjustment. Since neither the named inventor nor Magma has currently agreed on the record to accept the patent term adjustment consequences of suspension of prosecution herein, it would not be appropriate to place the wishes of Synopsys, who is currently a third party in this matter, above that of the current, real party in interest.

However, the USPTO stands ready to consider any proper request for stay of prosecution filed by either Mr. Van Ginneken or Magma.

DECISION

For the reasons noted above, (1) the third party request to take action in this application is dismissed as third party petitioner has failed to adequately establish its right within the meaning of 37 CFR 3.71(b)(1) and 3.73(b)to take action herein, and (2) the third party request to suspend prosecution of this application is likewise **dismissed**.

This application is being brought to the attention of the Technology Center for examination in due course.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
SYNOPSYS, INC. C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

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COMMISSIONER FOR PATENTS
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PARSONS HSUE & DE RUNTZ LLP
595 MARKET STREET
SUITE 1900
SAN FRANCISCO CA 94105

COPY MAILED

NOV 29 2005

OFFICE OF PETITIONS

Applicant: Van Ginneken
Appl. No.: 10/828,547
Filing Date: Apil 19, 2004
Title: TIMING CLOSURE METHODOLOGY
Attorney Docket No.: MDAI.001US3
Pub. No.: US 2005/0120319 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 16, 2005, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the wrong correspondence address on the front page of the publication.

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 error in the correspondence address is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the correspondence address does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The 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

[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).

accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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PARSONS HSUE & DE RUNTZ LLP
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SUITE 1900
SAN FRANCISCO CA 94105

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of
Van Ginneken
Application No. 10/828,547
Filed: April 19, 2004
Attorney Dck't. No. N/a

: ON PETITION

This is a decision on the petition filed March 9, 2006, requesting (1) under 37 CFR 1.103 suspension of prosecution for 6 months, or, in the alternative, (2) under 37 CFR 1.183, waiver of the rules and suspension of prosecution for the duration of pending litigation, which is being treated by this office only under the provisions of 37 CFR 1.183.

The petition considered only under 37 CFR 1.183 is dismissed without prejudice to renewal.

Petitioner, the current assignee of the entire interest, asserts that final resolution of the inventorship and ownership issues will assist in the examination of this application, and now, as the third party petitioner (and petitioner's opposition in the litigation) did in the petition filed March 4, 2005, seeks suspension of prosecution *pendente lite*. However 37 CFR 1.103, sub-sections (a), and (d) would appear to provide an adequate remedy (respectively, initial and renewed requests for suspension of up to 6 months, or examination deferral for up to 3 years) for the circumstances of this case. The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 or 1.183 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pats. 1982). As such, it does not appear, at this time, that there exists an "extraordinary situation", such that "justice requires" extraordinary relief and intervention by this office. Nevertheless, this dismissal is without prejudice to renewal of the petition under 37 CFR 1.183 by petitioner should the provisions of § 1.103 become inadequate.

This application is being brought to the attention of the Technology Center for treatment of the petition under the provisions of 37 CFR 1.103.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

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APR 2 5 2008

OFFICE OF PETITIONS

In re Application of

MILLS, Randell L. et al.
Application No. 10/828,558
Filed: April 21, 2004
Attorney Docket No. **62248-1**

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 March 17, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that customer number #20817 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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 properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DR. RANDELL L. MILLS**
493 OLD TRENTON ROAD
CRANBURY, NJ 08512

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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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

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MAY 27 2008

In re Application of	:	
MILLS, Randell L. et al.	:	
Application No. 10/828,558	:	DECISION ON PETITION
Filed: April 21, 2004	:	TO WITHDRAW
Attorney Docket No. **62248-1**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 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 Jeffrey S. Melcher on behalf of all attorneys of record who are associated with customer No. 20736. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Randell L. Mills at the address indicated below.

There is an outstanding Office action mailed March 17, 2008 that requires a reply from the 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: **RANDELL L. MILLS**
493 OLD TRENTON ROAD
CRANBURY, NJ 08512

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-10-08

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/828565** Patent No.: **7285238**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE _____ **Art Unit** 1791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2006

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828579 patent No.: 7,088,427

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved

DIANE LEE
SUPERVISORY PATENT EXAMINER

Diane Lee — **SPE**

2851 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : November 27, 2004

Patent No. :6,997,979
Inventor(s) :Bauer et al.
Issued :February 14, 2006
Title :PIGMENT-BASED INKS FOR INK-JET PRINTING
Doc./File No. :200403557-1
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.

Applicants' proposed request to change data in column 16 and column 18 are not warranted entry. The changes as presented in the Letters Patent are the result of a decision made by the examiner during Allowance and is therefore considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-8309 or (703) 308- 9380 Ext. 123

Hewlett-Packard Company
Intellectual Property Section
3404 E. Harmony Road, M/S 79
Fort Collins, CO 80528

CBN/arg

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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MAR 3 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Betty Shu Mercer et al. :
Application No. 10/828,592 :
Filed: April 21, 2004 :
Attorney Docket No. TI 36275 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 9, 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) was obtained. Accordingly, the application became abandoned on September 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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 $1590 extension of time fee submitted on January 8, 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 Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2891 for appropriate action on the amendment filed January 8, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of	:
Luxem et al.	: DECISION GRANTING
Application No. 10/828,594	: PETITION
Filed: 21 April, 2004	:
Attorney Docket No. 14998US02	:

This is a decision on the petition under 37 CFR 1.53, filed on 9 July, 2004, requesting that the above-identified application, without drawings, be accorded a filing date of 21 April, 2004.

The application was filed on 21 April, 2004, without drawings.[1] Accordingly, on 1 July, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 9 July, 2004, the present petition was filed, accompanied by an amendment deleting references to the drawing Figures.

Petitioners state that the specification incorrectly made reference to eight missing drawing figures, but state that the drawings are not necessary because the application contains method claims.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 1-32 are method claims. Therefore, the present application is deemed to be an application which does not

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted on 9 July, 2004, will be credited to counsel's deposit account, No. 13-0017.

The "Notice of Incomplete Nonprovisional Application" mailed on 1 July, 2004, was sent in error and is hereby vacated.

The application will be processed and examined using only the application papers filed on 21 April, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 21 April, 2004, using only the application papers present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Mendel et al. :
Application No. 10/828,607 : ON PETITION
Filed: April 21, 2004 :
Title of Invention: Treatment of Neuropathic :
Pain or Fibromyalgia :

This is a decision on the petition filed January 17, 2006 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of June 17, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 18, 2005. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends the Final Office Action was not received. Petitioner states that the filing of the petition was delayed due to Christmas and New Years.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance 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 the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a two month period for reply was set in the nonreceived Notice of Missing Parts , a copy of the docket report showing all replies docketed for a date two months from the mail date of the nonreceived Notice of Missing Parts must be submitted as documentary proof of nonreceipt of the Notice of Missing Parts.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Final Office Action may have been lost after receipt rather than a conclusion that the Final Office Action was lost in the mail.

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] 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).

Petitioner has failed to provide a copy of the docket record. Further petitioner's focus on the holidays shows that petitioner was preoccupied with other matters and such preoccupation does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Mendel et al. :
Application No.10/828,607 : DECISION ON PETITION
Filed: April 21, 2004 :
Title of Invention: Treatment of :
Neuropathic Pain or Fibromyalgia

This is a decision on the petition under 37 CFR §1.137(b), filed March 23, 2006.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of June 17, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 18, 2005. This decision precedes the mailing of a Notice of Abandonment . A decision dismissing a petition under 37 CFR 1.137(a) was mailed on March 10, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The RCE and the amendment submitted with the instant petition will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BATON ROUGE, LA 70809

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of :
Gale J. Campbell :
Application No. 10/828,612 :
Filed: April 21, 2004 :
Attorney Docket No. 9371.002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 19, 2006, is attached.

This application is being returned to Technology Center 3600 for examination *in due course.*

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment:
Communication Regarding Rescission Of Nonpublication Request

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OFFICE OF PETITIONS

In re Application of :
Daniel B. Carr, et al. :
Application No. 10/828,623 :
Filed: April 21, 2004 :
Attorney Docket No. 2004117-0008 (NEMC 197-DI :

ON PETITION

This is a decision on the petition, filed July 10, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to a non-final Office action mailed September 28, 2006. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 29, 2006.

Petitioner seeks revival solely for obtaining copendency with continuing application No. 11/692,872, filed March 28, 2007, in that the necessary continuity inadvertently was not maintained at that time.

Since this application is being revived for purposes of continuity with application No. 11/692,872, and continuity having been established by this decision reviving the above-captioned application, the above-captioned application is again abandoned in favor of the continuing application.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." If the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. In no case, however, may an applicant respond later than the maximum time period set by statute. Therefore, the offer to make the belated payment of the 3-month extension of time fee under 37 CFR 1.136(a) is unnecessary. No extension fee has been charged, nor is one due on a petition for revival.

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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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Pahl et al.	:	
Application No. 10/828,650	:	ON APPLICATION FOR
Filed: April 21, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 04266864	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed December 7, 2007. Applicants request that an additional 100 days of patent term adjustment be granted in addition to the 477 days provided in the Notice of Allowance mailed on September 10, 2007.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Patentees are given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the

request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicants are correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on July 30, 2007.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance)

will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APR 25 2008
OFFICE OF PETITIONS

In re Application of :
Axel Pahl et al :
Application No. 10/828,650 : ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. 04266864 :

This is a decision on the petition, filed December 10, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Solvay Pharmaceuticals GmbH, Hannover, Germany. Accordingly, petitioner requests that the patent issue to Solvay Pharmaceuticals GmbH, Hannover, Germany.

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 under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to Solvay Pharmaceuticals GMBH, Hannover, Germany has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Solvay Pharmaceuticals was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Solvay Pharmaceuticals GMBH, as the assignee</u>**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***<u>must</u>*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignees set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petition Examiner
Office of Petitions

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P.O. Box 1450
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8/1/08

Patent No. :7381729
Ser. No. :10/828650
Inventor(s) :Pahl, Axel
Issued : 6/3/08
Docket No. : 04266864

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690-2828

HR

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SEP 30 2008

OFFICE OF PETITIONS

In re Patent No. 7,381,729	:	
Pahl et al.	:	DECISION ON REQUEST
Issue Date: June 3, 2008	:	FOR
Application No. 10/828,650	:	RECONSIDERATION OF
Filed: April 21, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 04266864	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE DECEMBER 7, 2007 APPLICATION FOR PATENT TERM ADJUSTMENT," filed June 25, 2008. Patentee requests that the patent term adjustment indicated on the face of the patent be corrected from five hundred thirty-four (534) days to six hundred thirty-four (634) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On June 3, 2008, the above-identified application matured into U.S. Patent No. 7,381,729, with a Patent Term Adjustment of 534 days. Prior to issuance of the patent, on December 7, 2007, patentee timely filed an application for patent term adjustment requesting that an additional 100 days of patent term be granted for the Office taking in excess of three years to issue the patent. By decision mailed March 31, 2008, patentee was advised that a decision on this issue was to be held in abeyance until after the actual patent date and upon filing of a request by patentee. Pursuant to that decision, patentee timely filed the

instant request. Patentee continues to request correction of the patent term adjustment to increase the patent term adjustment to 634 days on the basis that the patent issued more than 3 years and 100 days after the date on which the application was filed, and a request for continued examination (RCE) was filed in this application three years and 100 days after the date on which the application was filed.

Pursuant to 35 U.S.C. 154(B)(i), § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a RCE was filed on July 30, 2007. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended July 30, 2007. Accordingly, the period of adjustment under § 1.702(b) is 99 days, counting the number of days beginning on April 22, 2007, and ending on July 29, 2007 (July 30, 2007 to June 3, 2008 is 310 days).

However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 99 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 477 days attributable to grounds specified in § 1.702(a)(1) and 57 days attributable to grounds specified in § 1.702(a)(4). Thus, no additional period of adjustment beyond the 534 (477 + 57) days was entered.

In view thereof, the patent term adjustment of 534 days indicated in the patent is correct

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on application for patent term adjustment filed December 7, 2007. No additional fees are required.

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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MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690

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OCT 01 2008

OFFICE OF PETITIONS

In re Patent No. 7,381,729 :
Issue Date: June 3, 2008 :
Application No. 10/828,650 : ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. 04266864 :

This is a decision on the petition filed August 8, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Pahl, et al.	)	ATTORNEY DOCKET:	04266864
SERIAL NO.:	10/828,650	)	GROUP ART UNIT:	1624
PATENT NO.:	7,381,729	)		
FILED:	April 21, 2004	)	EXAMINER:	Moore, Susana
TITLE:	4- (4-TRANS-HYDROXYCYCLOHEXYL)AMINO-2-PHENYL-7H-PYRROLO [2,3D] PYRIMIDINE HYDROGEN MESYLATE, ITS POLYMORPHIC FORMS, AND METHODS FOR MAKING SAME			
DATE:	August 8, 2008			

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.323

Pursuant to 37 C.F.R. § 1.323, the Applicants respectfully renew their request that United States Pat. No. 7,381,729 (the '729 Patent) be corrected as set forth in the attached Form PTO/SB/44 which was previously submitted to the USPTO on June 25, 2008.

Solvay Pharmaceuticals B.V. is incorrectly listed as the assignee for the '729 Patent. The present request is being submitted to change the assignee identified on the front page of the '729 Patent to Solvay Pharmaceuticals GmbH. The correction is being made so that the assignment information is consistent with the assignment recorded with the USPTO. The reel and frame number of the recorded assignment is 015356/0432. The assignment was recorded on May 18, 2004, prior to the grant of the '729 Patent.

Adjustment date: 10/01/2008 CKHLOK
08/11/2008 INTEFSW 00001794 130019 10828650
01 FC:1808 130.00 CR

Adjustment date: 10/01/2008 CKHLOK
06/25/2008 INTEFSW 00007698 130019 10828650
01 FC:1811 100.00 CR

10/01/2008 CKHLOK 00000027 130019 7381729
01 FC:1464 130.00 DA
02 FC:1811 100.00 DA

The Office is invited to call the undersigned attorney if it would assist in processing this request for a certificate of correction for the '729 Patent.

Respectfully submitted,

By: _____

Jamison E. Lynch
Reg. No. 41,168

CUSTOMER NUMBER 26565
MAYER, BROWN, ROWE & MAW LLP
P.O. Box 2828
Chicago, IL 60690-2828
(312) 701-7551

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Mayer Brown LLP
PO Box 2828
Chicago, Illinois 60690

In re Patent No. 7,381,729 Pahl et al. Issue Date: June 3, 2008 Application No. 10/828,650 Filed: April 21, 2004 Attorney Docket No. 04266864 Title: 4-(4-Trans-hydroxycyclohexyl) Amino-2-Phenyl-7H-Pyrrolo [2,3D] Pyrimidine Hydrogen Mesylate, Its Polymorphic forms, and methods for making same	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred thirty-three (633) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred thirty-three (633) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,381,729 B2

DATED : **June 3, 2008** **DRAFT**

INVENTOR(S) : Pahl 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 534 days

Delete the phrase "by 534 days" and insert – by 633 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 12:40:36

PTA Calculations for Application: 10/828650			
Application Filing Date:	04/21/2004	PTO Delay (PTO):	534
Issue Date of Patent:	06/03/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	633
PTO Delay Adjustment:	99		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	99		
71.5	05/14/2008	PTA 36 MONTHS			
71	06/03/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	57		61
70	04/30/2008	EXPORT TO FINAL DATA CAPTURE			
69	04/29/2008	DISPATCH TO FDC			
68	04/25/2008	MAIL-PETITION DECISION - DISMISSED			
67	04/25/2008	PETITION DECISION - DISMISSED			
66	03/31/2008	MAIL-PETITION DECISION - DISMISSED			
65	03/31/2008	PETITION DECISION - DISMISSED			
64	12/07/2007	PETITION ENTERED			
62	12/20/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
61	12/07/2007	ISSUE FEE PAYMENT VERIFIED			
60	12/10/2007	PETITION ENTERED			
59	12/07/2007	ISSUE FEE PAYMENT RECEIVED			
58	09/17/2007	EXPORT TO INITIAL DATA CAPTURE			
57	09/10/2007	MAIL NOTICE OF ALLOWANCE			
56	09/06/2007	ISSUE REVISION COMPLETED			
55	09/06/2007	DOCUMENT VERIFICATION			
54	09/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	09/04/2007	NOTICE OF ALLOWABILITY			
51	07/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	07/30/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			

49	08/17/2007	DATE FORWARDED TO EXAMINER			
48	07/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	08/17/2007	DISPOSAL FOR A RCE / CPA / R129			
46	07/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	07/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	06/08/2007	FINISHED INITIAL DATA CAPTURE			
43	05/14/2007	EXPORT TO INITIAL DATA CAPTURE			
42	05/09/2007	MAIL NOTICE OF ALLOWANCE			
41	05/07/2007	ISSUE REVISION COMPLETED			
40	05/07/2007	DOCUMENT VERIFICATION			
39	05/07/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	05/07/2007	NOTICE OF ALLOWABILITY			
37	04/26/2007	DATE FORWARDED TO EXAMINER			
36	04/16/2007	AMENDMENT AFTER FINAL REJECTION			
35	03/22/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	03/19/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	02/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	02/16/2007	FINAL REJECTION			
31	01/11/2007	DATE FORWARDED TO EXAMINER			
30	01/05/2007	RESPONSE AFTER NON-FINAL ACTION			
29	10/11/2006	MAIL NON-FINAL REJECTION	477		-1
28	09/29/2006	NON-FINAL REJECTION			
27	07/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	06/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	11/03/2005	CORRESPONDENCE ADDRESS CHANGE			
24	10/28/2005	CORRESPONDENCE ADDRESS CHANGE			
23	11/11/2004	CORRESPONDENCE ADDRESS CHANGE			
22	11/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	11/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	08/27/2004	APPLICATION RETURN FROM OIPE			
19	08/27/2004	APPLICATION IS NOW COMPLETE			
18	08/27/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
17	08/27/2004	APPLICATION RETURN TO OIPE			

16	08/27/2004	APPLICATION RETURN FROM OIPE			
15	08/27/2004	APPLICATION RETURN TO OIPE			
14	08/27/2004	APPLICATION RETURN FROM OIPE			
13	08/27/2004	APPLICATION IS NOW COMPLETE			
12	08/06/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	08/27/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	08/27/2004	APPLICATION RETURN TO OIPE			
9	08/27/2004	APPLICATION DISPATCHED FROM OIPE			
8	08/27/2004	APPLICATION IS NOW COMPLETE			
7	08/06/2004	ADDITIONAL APPLICATION FILING FEES			
5	07/01/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	05/20/2004	CLEARED BY OIPE CSR			
3	05/20/2004	CASE CLASSIFIED BY OIPE			
2	04/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/21/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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OFFICE OF PETITIONS

In re Patent No. 7,381,729 Pahl et al. Issue Date: June 3, 2008 Application No. 10/828,650 Filed: April 21, 2004 Attorney Docket No. 04266864 Title: 4-(4-Trans-hydroxycyclohexyl) Amino-2-Phenyl-7H-Pyrrolo [2,3D]Pyrimidine Hydrogen Mesylate, Its Polymorphic forms, and methods for making same	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The Office had a typographical error in the decision mailed 5/20/2010. In one place, the Office erred by asserting that the number was 933 and not 633. In order to avoid any confusion, the Office is remailing the decision with all places specifying 633 days. The Office apologizes for any confusion this may have caused.

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred thirty-three (633) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred thirty-three (633) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,381,729 B2

DATED : **June 3, 2008** **DRAFT**

INVENTOR(S) : Pahl 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 534 days

Delete the phrase "by 534 days" and insert – by 633 days--

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c/o MCANDREWS, HELD & MALLOY
500 WEST MADISON STREET
34TH FLOOR
CHICAGO, IL 60661

Mail Date: 05/07/2010

Applicant	: C. Randal Mills	: DECISION ON REQUEST FOR
Patent Number	: 7648676	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/828,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **677** 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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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:
Walter GRAMLICH et al.	: DECISION ON PETITIONS
Application No. 10/828,674	: UNDER 37 CFR 1.183 AND
Filed: April 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16124WOUS	:

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/EP02/11591, filed October 16, 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 3742 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.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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SEP 23 2005

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:
Robert E. Dudley et al	:
Serial No.: 10/828,678	: SUSPENSION OF ACTION
Filed: April 20, 2004	:
Attorney Docket No.: 04274649	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed September 13, 2005.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of pending litigation.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of litigation pending in the District Court in Georgia involving two cases. No indication is given as to when the cases were filed, their status or approximate date of decision or resolution nor how any decision would affect prosecution or patentability in this application. Further it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/828,702	04/21/2004	3723	770	HURTH-042-US	1	3	1

CONFIRMATION NO. 5383

CORRECTED FILING RECEIPT

OC000000013571041

23549
THE GLEASON WORKS
1000 UNIVERSITY AVENUE
P O BOX 22970
ROCHESTER, NY 146922970

Date Mailed: 08/18/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Engelbert Schauer, Unterschleissheim, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10322181.6 05/16/2003

If Required, Foreign Filing License Granted: 06/25/2004

Projected Publication Date: 11/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

Truing tool for truing a grinding worm

Preliminary Class

451

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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JENNER & BLOCK, LLP
ONE IBM PLAZA
CHICAGO IL 60611

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OFFICE OF PETITIONS

In re Application of
Michael R. Zielinski et al.
Application No. 10/828,705
Filed: April 21, 2004
Attorney Docket No. 37041.11406

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on December 27, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 21, 2004, without an executed declaration. Accordingly, a Notice to File Missing Parts was mailed June 29, 2004. In response thereof, a declaration naming Michael R. Zielinski and Michael Jon Taylor as joint inventors, signed only by joint inventor Taylor and a four month extension of time were filed with the instant petition. The petition filed December 27, 2004 requests status under 37 CFR 1.47 claiming that joint inventor Zielinski cannot be found or reached after diligent efforts.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

In regards to item (1), petitioners have not provided sufficient proof that a copy of the

complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

A statement made by Nancy Page, employed by the assignee, indicates that a telephone call to Mr. Zielinski went unanswered and further, Ms. Page did not receive a return call from the message left at the last known phone number for Mr. Zielinski. Ms. Page explains that she also mailed, via FEDEX, the declaration to the last known address and that it was returned unopened and marked "return to sender".

The evidence presented is not sufficient to show that Mr. Zielinski cannot be located, since no proof has been presented to that end, rather, the evidence presented is more in line with an argument that the non-signing inventor refuses to cooperate with the filing of the application, though that argument would also fail since it isn't clear that Mr. Zielinski had the benefit of seeing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If petitioners would like to renew the argument that Mr. Zielinski cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] The fact that the envelope containing the declaration was returned is not evidence that Mr. Zielinski no longer lives at that address. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Zielinski such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Zielinski by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

---

[1] MPEP 409.03(d).

If Mr. Zielinski refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, the petition fee in the amount of $200.00 has been charged to deposit account no. 10-0460 as authorized in the petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
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JENNER & BLOCK, LLP
ONE IBM PLAZA
CHICAGO IL 60611

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APR 11 2005

OFFICE OF PETITIONS

In re Application of
Michael R. Zielinski et al.
Application No. 10/828,705
Filed: April 21, 2004
Attorney Docket No. 37041-11406

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:**37 CFR 1.47(b) DISMISSED** AS
:INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed December 27, 2004 and was dismissed in a decision mailed January 28, 2005.

Papers filed on March 21, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed January 28, 2005, included a declaration signed by the previously non-signing inventor, Michael R. Zielinski, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 21, 2005 is **DISMISSED** as involving moot issues.

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).

This matter will be referred to Technology Center 2856 for further examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BUCHANAN 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	: 7618447	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/828,716	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **467** 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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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

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MAY 27 2008

In re Application of	:	
Lake	:	
Application No. 10/828,720	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. RSW920040056US1	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 31, 2007, requesting revival of the above-identified application under the unavoidable delay standard. The petition will be 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 under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 28, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 28, 2007. A Notice of Abandonment was issued on October 25, 2007.

Applicant's representative is a participant in the Office's E-Notification program, wherein applicant's representative receives a once daily e-mail notification of all applications in which outgoing Office correspondence has been issued. Petitioner asserts that applicant's representative received e-mail notification that correspondence was available for viewing in application no. 10/828,720. The correspondence, when viewed, was for application no. 10/765,382. Applicant's representative sent an e-mail to the Office informing the Office of the error. The Office responded, "...[W]e will have this taken care of.."

A Notice of Allowance and Fee(s) Due and a Notice of Allowability were generated for this application and are present in the application file. However, a review of the record indicates that e-mail notification of the Notice of Allowance and Fee(s) Due and the Notice of Allowability for this application was not sent.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The $510.00 petition fee will be refunded to deposit account no. 09-0461.

Applicant has submitted a PTOL-85b, the issue fee, and the publication fee with the present petition. Thus, it is unnecessary to re-mail the Notice of Allowance and Fee(s) Due and the Notice of Allowability.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Baker	:	
Application No. 10/828,722	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 100.441US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 6, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 6, 2006. Accordingly, the date of abandonment of this application is September 7, 2006. A Notice of Abandonment was mailed on October 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and the publication fee of $300.00 and a completed PTOL-85B, (2) the petition fee of $1,500.00; and (3) an acceptable statement of unintentional delay.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The request to change the correspondence address to customer number 26263, filed January 26, 2007, will not be entered because it is signed by an attorney has not been empowered. A courtesy copy of this decision will be mailed to the address listed on the petition. All future

correspondence will be mailed to the address of record until appropriate change of correspondence address documents are filed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Publishing Division for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: TAREK N. FAHMI
SONNENSCHIEN NATH & ROSENTHAL LLP
P.O. BOX 061080, WACKER DRIVE STATION
SEARS TOWER
CHICAGO IL 60606-1080

UNITED STATES PATENT AND TRADEMARK OFFICE

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:
Staimer et al	:DECISION REFUSING STATUS
Application No. 10/828,732	:UNDER 37 CFR 1.47(a)
Filed: April 21, 2004	:
Attorney Docket No. NAGACO.215A	:

This is a decision in response to the petition under 37 CFR 1.47(a) filed on November 1, 2004 (certificate of mailing October 28, 2004). Petitioner obtained a two-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is **DISMISSED**.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time under 37 CFR 1.136(a) are permitted.

On April 21, 2004, petitioner filed the above-identified application without an executed oath or declaration. On June 29, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the oath or declaration was missing, and requiring a surcharge for its late filing.

On November 1, 2004 (certificate of mailing October 28, 2004), petitioner submitted the present petition with an executed declaration listing only four joint inventors, Staimer, Chen, Norton and Jison. Petitioner requests that the Commissioner accept the filing of the above-identified application by joint inventors Staimer, Chen, Norton and Jison on behalf of themselves

and nonsigning inventor, Johnny Chen Mounphoxay. However, the declaration submitted by petitioner did not list Mounphoxay as a named inventor nor did he executed the declaration.

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 lacks item (2) above.

The declaration filed on November 1, 2004, does not list Mounphoxay as a joint inventor. 37 CFR 1.41(a)(1) defines the inventorship of a nonprovisional application as that inventorship set forth in the oath or declaration as prescribed by 37 CFR 1.63. Mounphoxay is not listed as a joint inventor on the declaration. Therefore, he is not a part of the inventive entity. If petitioner wishes to add Mounphoxay as a joint inventor, a petition under 37 CFR 1.48, or a petition under 1.183 to waive 1.48, if appropriate, must be filed as described below.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

> (1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
>
> (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
>
> (3) the fee set forth in 37 CFR 1.17(i), and
>
> (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioner should request that Mounphoxay sign a statement of lack of deceptive intent. If an inventor's statement cannot be obtained, then upon a showing of extraordinary circumstances, such that justice requires, petitioner may seek waiver under 37 CFR 1.183 of that part of the regulation.[1] Petitioner must show that the inability to obtain the statement from Mounphoxay is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioner's control.[2] If Mounphoxay refuses to sign the statement of lack of deceptive intent, petitioner should provide proof that the statement of lack of deceptive intent was sent or given to him by providing a copy of the cover letter transmitting the statement of lack of deceptive intent to Mounphoxay or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If Mounphoxay refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the statement of lack of deceptive intent is returned as undeliverable, petitioner may provide proof that diligent efforts have been made to locate Mounphoxay by providing a copy of an envelope showing that a letter sent to the last known address of Mounphoxay was returned as undeliverable by the post office. Details of the efforts made to locate Mounphoxay should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

The Office further notes that the declaration submitted is defective because petitioner failed to list Mounphoxay as a joint inventor, as well as provide his citizenship, mailing address, and residence. Petitioner must be provide the Office with a new declaration setting for the citizenship, mailing address, and residence of the entire inventive entity, leaving the signature block blank as to Mounphoxay if he refuses to sign. The declaration must be signed by each of the signing inventors on behalf of the non-signing inventor.

---

[1] See MPEP 201.03(B).

[2] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Knobbe Martens Olson & Bear
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Staimer et al.	:	DECISION ACCORDING STATUS
Application No. 10/828,732	:	UNDER 37 CFR 1.47(a)
Filed: April 21, 2004	:	
Attorney Docket No. NAGACO.215A	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 3, 2005.

The petition is granted.

Petitioner has shown that Johnny Chen Mounphoxay, 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 Russell Jeide 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.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to Technology Center Art Unit 1744 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Johnny Chen Mounphoxay
2251 W. Falmouth Avenue
Anaheim CA 92801

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Staimer et al.	:	LETTER
Application No. 10/828,732	:	
Filed: April 21, 2004	:	
Attorney Docket No. NAGACO.215A	:	

Dear Mr. Mounphoxay:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Knobbe Martens Olson & Bear
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Kameda et al.	:	
Application No. 10/828,733	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 021964/337037	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ZHEN ZHENG LU
1730 HUNTINGTON DRIVE #304
DUARTE, CA 91010

In re Application of	:	
Brian C. Martin et al	:	
Application No. 10/828,740	:	DECISION ON PETITION
Filed: April 20, 2004	:	TO WITHDRAW
Attorney Docket No. 022263-000110US	:	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 March 27, 2009.

The request is **APPROVED**.

A review of the file record indicates that Raymond B. Hom: (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, Raymond B. Hom 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).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Raymond B. Hom
Townsend and Townsend and Crew LLP
12730 High Bluff Drive, Suite 400
San Diego, CA 92130

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Y. Grace Tsang
Shell Oil Company
Legal- Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Salanitro, et al. :
Application No. 10/828,754 : DECISION GRANTING PETITION
Filed: April 21, 2004 :
Attorney Docket No. TH1006 05 :

This is a decision on the petition filed August 23, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed August 2, 2004.

On April 21, 2004, the application was deposited.

On August 2, 2004, the Office of Initial Patent Examination mailed the Notice stating that drawings were not found with the application papers, but appeared to be required in order to obtain a filing date. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on August 23, 2004. Petitioner maintains that the application was complete on filing and entitled to a filing date because the application incorporated by reference the entire disclosure of a prior application.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 21, 29, and 36 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of April 21, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 21, 1004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

TH1006-05

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OFFICE OF PETITIONS

Y. Grace Tsang
Shell Oil Company
Legal- Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

In re Application of
Salanitro, et al.
Application No. 10/828,754 : DECISION GRANTING PETITION
Filed: April 21, 2004 :
Attorney Docket No. TH1006 05 :

This is a decision on the petition filed August 23, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed August 2, 2004.

On April 21, 2004, the application was deposited.

On August 2, 2004, the Office of Initial Patent Examination mailed the Notice stating that drawings were not found with the application papers, but appeared to be required in order to obtain a filing date. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on August 23, 2004. Petitioner maintains that the application was complete on filing and entitled to a filing date because the application incorporated by reference the entire disclosure of a prior application.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 21, 29, and 36 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of April 21, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 21, 1004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

Any inquiries related to this decision should be directed to the undersigned at ~~(703) 305-0010~~ 571 272-3222

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SHELL OIL COMPANY
LEGAL-INTELLECTUAL PROPERTY
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HOUSTON, TX 77252-2463

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:
Joseph P. Salanitro et al	:
Application No. 10/828,754	: DECISION ON PETITION
Filed: April 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TH1006 05	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application (Application No. 10/303,632) set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED AS MOOT**.

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).

While this application was filed after November 29, 2000, a review of the file record discloses that a claim for priority to the above-noted, prior-filed, nonprovisional application was made in a preliminary amendment filed concurrently with the instant application. Therefore, as the claim for priority to Application No. 10/303,632 was timely made within the period set forth in 37 CFR 1.78(a)(2)(ii) (i.e., within four months from the actual filing date of this application), a petition under 37 CFR 1.78(a)(3) is not required. Accordingly, the petition is unnecessary and is dismissed as involving a moot issue.

It is noted that the preliminary amendment filed with the application on April 21, 2004, included a claim for priority to Application Nos. 10/303,632 and 09/549,981, while the amendment submitted with the petition makes reference only to Application No. 10/303,632. If petitioner did not intend to delete the reference to Application No. 09/549,981, then petitioner should take steps to clarify the record.

It is further noted that the Filing Receipt issued in this application sets forth a benefit claim to provisional Application No. 60/129,328, which claim appears in the declaration submitted on

filing. However, the file record fails to disclose that an amendment to the first line of the specification or an Application Data Sheet is present in the application. While the Office picked up the reference, as noted by its inclusion on the Filing Receipt and, thus, no petition under 37 CFR 1.78(a)(6) is required, petitioner must make a reference to the prior-filed provisional application in an amendment or in an Application Data Sheet.

The 'PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323 (PATENT AND TRADEMARK OFFICE MISTAKE)," filed November 8, 2004, is being treated as a request for a corrected Filing Receipt. The correction has been made and a corrected Filing Receipt accompanies this decision on petition.

Any inquiries concerning this decision 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 matter is being referred to Technology Center Art Unit 1724 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
100 Cambridge Street
Suite 2101
BOSTON MA 02114

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael J. LONSWAY	:	
Application No. 10/828,759	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. G0003/7254	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 22, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Ho et al.	:	DECISION ON PETITION
Application No. 10/828,761	:	
Filed: April 20, 2004	:	
Atty Docket No. 1176/209	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed September 10, 2008.

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)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to timely file an appeal brief and brief fee. A final Office action was mailed on October 9, 2007. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). Amendments were filed in reply on December 10, 2007 and on January 9, 2008 with an appropriate extension of time. However, the examiner determined that neither of these replies placed the application in condition for allowance. (See Advisory Actions mailed December 27, 2007 and February 4, 2008). On February 11, 2008, applicant filed a Notice of Appeal and Request for pre-appeal Brief Conference. This further reply was made timely by an

additional petition for extension of time. On March 14, 2008, a Notice of Panel Decision was mailed. Therein, a one-month period, with extensions of time obtainable under 37 CFR 1.136(a), was set to file an appeal brief and brief fee. No appeal brief and brief fee considered timely filed and no extension of time considered obtained, the application became abandoned effective April 15, 2008. A courtesy Notice of Abandonment was mailed on August 19, 2008.

In response, applicant promptly filed the instant petition based on unavoidable delay. Applicant contends that a timely response was filed by facsimile transmission on April 14, 2008. In support thereof, applicant submits a copy of the response as filed, a 19-page appeal brief; a copy of their facsimile confirmation sheet confirming successful transmission; and a copy of the USPTO auto-reply acknowledging receipt of a 19-page facsimile transmission sent to 571-273-8300 (the Office's centralized facsimile number).

A grantable petition under § 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 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). No terminal disclaimer is required.

The petition includes a proposed required reply in the form of an appeal brief and payment of the petition fee. No terminal disclaimer is required to revive this application. The petition is not grantable because the instant petition fails to meet requirements (1) and (3) above.

With respect to requirement (1), the required reply is an appeal brief and the brief fee. This petition does not include the brief fee or an authorization to charge the brief fee to a Deposit Account.

With respect to requirement (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Petitioner's evidence and arguments have been considered and it is concluded that the requirements of 37 CFR § 1.8(b) have been met with respect to showing that an appeal brief was timely filed on April 14, 2008. An appeal brief is considered timely filed by facsimile transmission pursuant to 37 CFR § 1.6(d) on April 14, 2008. However, petitioner has not established that the appeal brief was accompanied by the required brief fee set forth in 37 CFR 41.20(b)(2). Further, no general authorization to pay any such required fee is present in the application. Accordingly, it is concluded that the application is properly held abandoned for failure to timely submit the appeal brief and brief fee. Under these circumstances, withdrawal of the holding of abandonment is not warranted.

Moreover, having not made an adequate showing of timely receipt of a proper reply, including the appeal brief and brief fee, the petition cannot be granted under §1.137(a).

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

It is noted that petitioner requests on petition to revive under 37 CFR 1.137(a) that the Office withdraw holding of abandonment and waive the petition fee. However, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee. See MPEP 711.03(c).

However, it is noted that petition fees totalling $760.00, rather than the $510 petition fee required by 37 CFR 1.137(a), were charged. The overpayment of $250 is being refunded to Deposit Account No. 50-1288, as authorized.

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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OFFICE OF PETITIONS

Applicant: Bourdelais et al.
Appl. No.: 10/828,779
Filing Date: April 21, 2004
Title: HIGH MODULUS LABEL WITH COMPLIANT CARRIER SHEET
Attorney Docket No.: 85924PAL
Pub. No.: US 2005/0238834 A1
Pub. Date: October 27, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 30, 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, in dependent claim 11, wherein "10^{12}" is misprinted as "1012".

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 30, 2006, was not timely filed under 37 CFR 1.221(b).

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] 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).

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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MESMER & DELEAULT, PLLC
41 BROOK STREET
MANCHESTER NH 03104

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Herbert M. Dean, et al.	:	
Application No. 10/828,797	:	ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. dean0404con	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2006, 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 January 6, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1614 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the reply and affidavit declaration submitted in accordance with 37 CFR 1.114.

Amelia Au
Petitions Examiner
Office of Petitions

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JUN 30 2005

In re Application of KRUSPE ET AL.
Appl. No.: 10/828,812
Filed: April 21, 2004
For: DOWNHOLE NMR PROCESSING

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have 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 Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Howard Goldberg
Director
Patent Examining Technology Center 2800

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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DEC 1 0 2009

Dilworth & Barrese, LLP
1000 Woodbury Road
Suite 405
Woodbury, NY 11797

In re Application of:	:	
Werner Seifried et al.	:	**DECISION ON PETITION**
Application No. 10/828,820	:	**FILED UNDER**
Filed: April 21, 2004	:	**37 CFR 1.181**
For: SYSTEM FOR THE TRANSPORTATION	:	
OF CONSTRUCTION MACHINES,	:	
PREFERABLY EXCAVATORS	:	

This is in response to the petition under 37 CFR 1.181 received December 3, 2009 requesting a corrected Notice of Allowability.

The petition is **GRANTED.**

Petitioner asserts that the Notice of Allowability mailed November 19, 2009 incorrectly fails to acknowledge the claim for foreign priority and receipt of the certified copy of the priority document.

A review of the application reveals that a claim to foreign priority under 35 U.S.C. 119(a)-(d) was made in the declaration filed September 1, 2004. The record also shows that a certified copy of the German priority document was received on September 1, 2004.

M.P.E.P. 201.14(c) sets forth that "[w]hen the papers under 35 U.S.C. 119(a)-(d) are received within the time period set forth in 37 CFR 1.55(a)(1), if applicable, they are **>entered into the application file history.< Assuming that the papers are timely and regular in form and that there are no irregularities in dates, the examiner in the next Office action will advise the applicant that the papers have been received on form PTOL-326 or by use of form paragraph 2.26."

The prosecution file indicates that a non-final rejection was mailed February 6, 2006; a final rejection was mailed September 29, 2006; a non-final rejection after the filing of a Request for Continued Examination (RCE) was mailed July 3, 2007; a final rejection was mailed April 21, 2008; and a non-final rejection after a second RCE was mailed January 6, 2009. A review of these office actions reveals that the examiner failed to advise the applicant, via the form PTOL-326 or by use of form paragraph 2.26, that the priority papers had been received.

As the priority papers received September 1, 2004 were timely filed and are regular in form and that there are no irregularities in dates, they are accordingly entered into the application files pursuant M.P.E.P 201.14(c).

The application will be returned to the examiner to provide a supplemental Notice of Allowability acknowledging applicant's claim for foreign priority and receipt of the certified copy of the priority document.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Fredrick Schmidt, Director
Patent Technology Center 3600
(571) 272-5150

FS/tl: 12/8/09

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COLUMBUS OH 43215

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Neal et al.	:	
Application No. 10/828,836	:	DECISION ON PETITION
Filed: 21 April, 2004	:	
Attorney Docket No.:1505800-050745	:	

This is a decision on the petition filed on 11 January, 2005, under 37 C.F.R. §1.47(a).

The petition is **DISMISSED**.

NOTES:

(1) Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 21 April, 2004, absent, *inter alia*, a fully executed oath/declaration;

- on 8 July, 2004, the Office mailed a Notice of Missing Parts;
- on 11 January, Petitioner replied (with a request and fee for extension of time) with an oath/declaration signed by Messrs. Neal and Dietz, but without the signature of non-signing inventor Daniel R. Smith (Mr. Smith), and with a statement by Petitioner Richard M. Mescher (Reg. No. 38,242) and statement by Dominic Federico (President and CEO of the alleged assignee), which latter statement clearly indicates that Petitioner has failed to transmit to the non-signing inventor Mr. Smith a copy of the entire application (description, claims, abstract and drawings).

ANALYSIS

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that

support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

---

[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 07-05

Paper No: __

PORTER, WRIGHT,
MORRIS & ARTHUR, LLP
41 SOUTH HIGH STREET
COLUMBUS OH 43215

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JUL 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Neal et al.	:	
Application No. 10/828,836	:	DECISION ON PETITION
Filed: 21 April, 2004	:	
Attorney Docket No.:1505800-050745	:	

This is a decision on the renewed petition filed on 6 May, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 21 April, 2004, absent, *inter alia*, a fully executed oath/declaration;
- on 8 July, 2004, the Office mailed a Notice of Missing Parts;
- on 11 January, Petitioner replied with the original petition and fee (with a request and fee for extension of time) with an oath/declaration signed by Messrs. Neal and Dietz, but without the signature of non-signing inventor Daniel R. Smith (Mr. Smith), and with a statement by Petitioner Richard M. Mescher (Reg. No. 38,242) and statement by Dominic Federico (President and CEO of the alleged assignee), and the petition was dismissed on 8 March, 2005, *inter alia*, because the latter statement clearly indicated that Petitioner has failed to transmit to the non-signing inventor Mr. Smith a copy of the entire application

OIPE JC148
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PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	Michael J. Neal, Doug Dietz, and Daniel R. Smith
Serial No.:	10/828,836
Filing Date:	April 21, 2004
Title:	"GAS CYLINDER WARMER WITH VARIABLE WATTAGE SELF REGULATING HEATER"
Examiner:	tbd
Art Unit:	tbd
Attorney Docket:	1505800-050745

RENEWAL PETITION UNDER 37 C.F.R. 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Co-Inventors Michael J. Neal and Doug Dietz hereby request the Commissioner reconsider the Decision on Petition mailed on March 8, 2005 and accept the filing of the above-identified U.S. Patent Application by other than all of the inventors.

The present application for patent has three co-inventors. Two of the co-inventors joined the present application while one of the co-inventors refused to join the present application. A Statement of Facts signed by Domenic Federico, president/CEO of BH Thermal Corporation and a Statement of Facts signed by myself are attached hereto to provide proof of the pertinent facts concerning the refusal of the third co-inventor to join the present application.

The name and last known address of the co-inventor refusing to sign is as follows:

07/26/2005 AKELLEY 00000005 162326 10828836
01 FC:1463 200.00 DA

contributed to the development of the invention, has a duty to jointly execute an application for patent covering the invention and to assign the invention, patent application, and any patent which issues thereon to BH Thermal Corporation

This petition for filing by other than all the inventors under 37 C.F.R. 1.47(a) was filed on January 7, 2005. In a Decision On Petition mailed March 8, 2005, this petition was dismissed because proof of a bona fide attempt to present a copy of the application papers to the nonsigning inventor for signature was not provided.

Subsequent to receiving the Decision On Petition, a complete copy of the application papers (specification, including claims and drawings, and declaration) were mailed via certified mail to the Mr. Smith along with a request for execution of the application papers. The application papers were mailed to the last known address identified above. In a subsequent telephone call, Mr. Smith confirmed receipt of the application papers and orally made an express refusal to sign the application papers.

In view of the oral express refusal of co-inventor Daniel R. Smith to execute the application papers required for filing the present patent application, co-inventors Michael J. Neal and Doug Dietz are believed to be entitled to make such application on behalf of and as agent for their co-inventor Daniel R. Smith.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,
PORTER, WRIGHT, MORRIS & ARTHUR LLP

May 4, 2005

Richard M. Mescher, Reg. No. 38,242
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, OH 43215-6194

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PATRICK R. SCANLON
PRETI FLAHERTY BELIVEAU & PACHIOS LLP
ONE CITY CENTER
PORTLAND, ME 04112-9546

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OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Lessard	:	
Application No. 10/828,861	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 32153US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 21, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2006. Accordingly, the date of abandonment of this application is September 22, 2006. A Notice of Abandonment was mailed on February 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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INTEL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenneth C. CRETA, et al	:	
Application No. 10/828,872	:	DECISION ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 42P18867	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (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.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2181 for appropriate action by the Examiner in the normal course of business on the reply received February 13, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

Cc: DAVID P. MCABEE
INTEL CORPORATION
M/S JF3-147
2111 NE 25TH AVENUE
HILLSBORO, OR 97124

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LAW OFFICES OF ALBERT S. MICHALIK PLLC
C/O MICROSOFT CORPORATION
704 - 228TH AVENUE NE
SUITE 193
SAMMAMISH, WA 98074

MAILED

NOV 28 2005

Technology Center 2100

In re Application of:
LANDY WANG
Application Serial No.: 10/828,877
Filed: April 20, 2004
For: **EFFICIENT WRITE-WATCH MACHANISM USEFUL FOR GARBAGE COLLECTION IN A COMPUTER SYSTEM**

DECISION ON
PETITION *under 37 CFR 1.102*

This is a decision on the petition, filed on November 10, 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 09/628,708 filed July 31, 2000.

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

AUG 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Masataka Innan, et al.
Application No. 10/828,881
Filed: April 20, 2004
For: **STORAGE DEVICE CONTROL DEVICE, STORAGE SYSTEM, RECORDING MEDIUM IN WHICH A PROGRAM IS STORED, INFORMATION PROCESSING DEVICE AND STORAGE SYSTEM CONTROL METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 15, 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

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W. Thomas Timmons
1320 Prudential Drive
Suite 208
Dallas, TX 75235-4117

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OFFICE OF PETITIONS

In re Application of	:	
Ronald J. Yaeger et al.	:	
Application No. 10/828,893	:	DECISION ON PETITION
Filed: April 20, 2004	:	TO WITHDRAW
Attorney Docket No. P-B199-CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 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 W. Thomas Timmons 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 Ronald J. Yaeger at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Ronald J. Yaeger**
4201 Tomberra Way
Dallas, TX 75220

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/828,893	04/20/2004	Ronald J. Yaeger	P-B199-CIP

CONFIRMATION NO. 5851

OC000000025789928

29222
W. THOMAS TIMMONS
1320 PRUDENTIAL DRIVE
SUITE 208
DALLAS, TX 75235-4117

Date Mailed: 09/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2007.

- 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.

T. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Mr. Ronald J. Yaeger
4201 Tomberra Way
Dallas, TX 75220

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NOV 10 2008

OFFICE OF PETITIONS

In re Application of

Ronald J. Yaeger et al.
Application No. 10/828,893
Filed: April 20, 2004
Attorney Docket No. P-B199-CIP

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 21, 2008, 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 photocopy of applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-1700.

The application is being forwarded to the Technology Center Art Unit 1794 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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1077 Northern Boulevard
Roslyn NY 11576-1696

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OFFICE OF PETITIONS

In re Application of

Wu, et al.

Application No. 10/828,917

Filed: April 21, 2004

Attorney Docket No. BA-22882

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2008, 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 July 16, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on November 19, 2007, with a request for an extension of time within the first month. An Advisory Action mailed December 11, 2007, indicated that the response did not place the application in condition for allowance. No further responses were filed. The application became abandoned on November 17, 2007. A Notice of Abandonment was mailed March 3, 2008.

The Request for Continued Examination filed March 7, 2008, is noted.

The request for an extension of time within the third month filed March 7, 2008, is noted, but cannot be granted and is not necessary because the application was already in an abandoned status when the request was filed. The amount of $465.00 will be refunded in due course.

The application file is being forwarded to Technology Center 2100, GAU 2181 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Jose Castillo Deniega	: DECISION ON REQUEST FOR
Patent Number	: 7569045	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/828,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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BRACCO RESEARCH USA INC.
305- COLLEGE ROAD EAST
PRINCETON, NJ 08540

Mail Date: 04/21/2010

Applicant	: Enrico Cappelleti	: DECISION ON REQUEST FOR
Patent Number	: 7611692	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/828,925	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **995** 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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Chiranjit Deka et al	:	
Application No. 10/828,929	:	DECISION ON PETITION
Filed: April 21, 2004	:	TO WITHDRAW
Attorney Docket No. 12858-9	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3742.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: MAGINOT MOORE & BECK
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS, IN 46204-5115

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MAR 23 2010

OFFICE OF PETITIONS

GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

In re Application of	:	
John Man Kwong KWAN et al	:	
Application No. 10/828,956	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. 358-001CPC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 28, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 29, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 2435 for further processing by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/12/08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828970 Patent No: 7022733 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1625
Art Unit

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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

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AUG 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Norton Spiel	:	
Application No. 10/828,988	:	DECISION GRANTING PETITION
Filed: April 21, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 240314 SPIEL COMBO CON2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerome Bombal	:	
Application No. 10/828,992	:	ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. TI-35112	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 27, 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) was obtained. Accordingly, the application became abandoned on October 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2186 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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APR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
David W. Caldwell, et al.	:	
Application No. 10/828,997	:	DECISION GRANTING PETITION
Filed: April 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 49256-109423	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 23, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
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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CHICAGO, IL 60690-2786

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of
David W. Caldwell, et al.
Application No. 10/828,997
Filed: April 20, 2004
Attorney Docket No. 49256-109423

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 5, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the 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.

As authorized, the $1,410 surcharge fee has been charged to petitioner's Deposit Account No. 12-0913.

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 3729 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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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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/828,997	04/20/2004	3729	2076	49256-109423	25	4

CONFIRMATION NO. 6796

CORRECTED FILING RECEIPT

23644
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

OC000000042086072

Date Mailed: 06/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David W. Caldwell, Holland, MI;
Michael Jon Taylor, Longmont, CO;
Michael L. Mashall, Byron Center, MI;

Power of Attorney: The patent practitioners associated with Customer Number 23644

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/464,438 04/22/2003
and claims benefit of 60/543,883 02/12/2004
and is a CIP of 10/272,377 10/15/2002 PAT 7,218,498
which claims benefit of 60/334,040 11/20/2001
and claims benefit of 60/341,551 12/18/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/828,997**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF MAKING AN ELECTRICAL CIRCUIT

Preliminary Class

029

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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Mario Donato, Jr.
STMicroelectronics, Inc.
1310 Electronics Dr.
Carrollton TX 75006

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Taylor Leaming :
Application No. 10/829,007 : DECISION ON PETITION
Filed: April 21, 2004 :
Attorney Dkt. No. 02-AU-090 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed June 18, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 19, 2007. A Notice of Abandonment was mailed on December 27, 2007.

This petition is hereby **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 of $1540.00, and (3) a proper statement of unintentional delay.

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.

This application is being referred to Technology Center AU 2181 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Christopher F. Regan
Allen, Dyer, Doppelt, Milbrath & Gilchrist
255 S. Orange Avenue, Suite 1401
Orlando, Florida 32801

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Paper No.

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Carrollton TX 75006

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APR 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Taylor Leaming : DECISION ON PETITION
Application No. 10/829,008 :
Filed: April 21, 2004 :
Atty Docket No. 02-AU-092 (52042):

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed Friday, December 21, 2007 (with a certificate of mailing dated December 21, 2007).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed June 18, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 19, 2007. A courtesy Notice of Abandonment was mailed on December 27, 2007.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.
With respect to the statement of unintentional delay, it is noted that on the Notice of Abandonment, the examiner notes attorney Woodson's acknowledgment of the abandonment. However, under the circumstances, this acknowledgment does not constitute an intentional abandonment of the application. It is considered that the Notice of Abandonment, which contained this

acknowledgment, was mailed on December 27, 2007. Of significance, at that time, the instant petition had already been filed on December 21, 2007. Moreover, although the petition with the required statement that "the entire delay from the due date to the filing of the petition was unintentional" was signed by attorney Regan, it also included a statement by attorney Woodson attesting to the unintentional abandonment of this application. As such, the examiner's notation on the Notice of Abandonment does not preclude a conclusion that the abandonment of this application was unintentional. Accordingly, it is concluded that petitioner has met all requirements for revival pursuant to 37 CFR 1.137(b) based on unintentional delay.

Technology Center AU 2181 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 21, 2007.

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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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Gabriele Mazzarolo	:	
Application No.: 10/829,030	:	ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. SAIC 19.368A	:	

This is a decision on the petition under 37 CFR 1.182, filed July 19, 2006, to correct the spelling of the inventor's name by way of a Certificate of Correction.

The petition is **granted**.

USPTO records will be corrected as follows:

> The inventor's name will be changed from "Gabriele Mazzarolo"
> to "Giovanni Mazzarolo"

The file is being referred to Certificates of Correction Branch for issuance of the requested Certificate of Correction. A corrected Filing Receipt is enclosed.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Any questions relating to the issuance of the Certificate of Correction should be directed to Certificates of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/829,030	04/21/2004	3728	1070	SAIC 19.368A	5	5	2

CONFIRMATION NO. 7423
CORRECTED FILING RECEIPT
OC000000022273076
OC000000022273076

26304
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

Date Mailed: 02/01/2007

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)

Giovanni Mazzarolo, Coste di Maser (Treviso), ITALY;

Power of Attorney:

Aaron Karas--18923
Samson Helfgott--23072
Leonard Cooper--27625
Emma Shleifer--29734
Michael Markowitz--30659
Harris Wolin--39432
Linda Chan--42400
Brian Myers--46947

Domestic Priority data as claimed by applicant

This application is a DIV of 10/031,551 01/18/2002 PAT 6,725,577
which is a 371 of PCT/EP01/05284 05/09/2001

Foreign Applications

ITALY MI2000A001137 05/23/2000

If Required, Foreign Filing License Granted: 06/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/829,030

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

STRUCTURE FOR LIMITING MOVEMENTS OF THE LEG-PIECE OF A MOTORCYCLE BOOT

Preliminary Class

036

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.

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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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of :
Barrowcliffe :
Application No. 10/829,042 :
Filed: April 21, 2004 :
Attorney Docket No. 674583-2001 :
For: COMPOSITION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2009, to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action, mailed April 17, 2008, which set an extendable three month period for reply. Applicant filed a request for a three month extension of time, an IDS, and an improper RCE on October 17, 2008. Accordingly, this application became abandoned on October 18, 2008, which is the day after the 6 month deadline for response. A Notice of Abandonment was mailed on March 18, 2009.

Applicant has submitted an amendment as the submission for the RCE in reply to the April 17, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 17, 2008 final Office action, and the petition fee.

Regarding the statement of delay: The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1652 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries pertaining to this decision 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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Commissioner for Patents
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P.O. Box 1450
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OFFICE OF PATENT COUNSEL
THE JOHNS HOPKINS UNIVERSITY
APPLIED PHYSICS LABORATORY
11100 JOHNS HOPKINS ROAD, MAIL STOP 7-156
LAUREL, MD 20723-6099

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Leo R. Gauthier Jr. et al	:	
Application No. 10/829,070	:	ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 1801-8124	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 11, 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 April 12, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2883.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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SEP 21 2006

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA PA 19103

In re Application of	:
Robert Falotico et al	:
Serial No.: 10/829,074	: PETITION TO MAKE SPECIAL
Filed: April 21, 2004	:
Attorney Docket No.: CRDS-0062	:

This is in response to the petition filed august 7, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement.

Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of
ROSENFELD, et al.
Application No. 10/829,104
Filed: April 21, 2004
Attorney Docket No. H1799-00219

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 3, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee of record has requested file be transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER B. AUSTIN**
MICHAEL BEST & FRIEDRICH LLP
100 E. WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of
Valladeau et al.
Application No. 10/829,107
Filed: April 21, 2004
Attorney Docket Number: SF0695C
Title of Invention: ISOLATED MAMMALIAN MEMBRANE PROTEIN GENES; RELATED REAGENTS

ON PETITION

This is a decision on the petition filed September 26, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed June 20, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 21, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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AT&T CORP.
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Jin-Meng Ho	:	
Application No. 10/829,113	:	DECISION GRANTING PETITION
Filed: April 21, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1999-0408CON(1014-065)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 14, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Fraser et al.	:	
Application No. 10/829,119	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. CF/002 CON	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 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 copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3624 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

Applicant	: Harold L. Longaker	: DECISION ON REQUEST FOR
Patent Number	: 7668562	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1705** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

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In re Application of	:	
Roger J. MALIK	:	
Application No. 10/829, 148	:	DECISION ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. **690-002**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 27, 2007. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 30, 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 $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed August 27, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1792 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **DAVID M. HILL**
380 MADISON AVENUE
NEW YORK, NY 10017

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :

GIRT, et al. :
Application No. 10/829,164 :
Filed: April 22, 2004 :
Attorney Docket No. **146712004900** :

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 30, 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 Peter J. Davis on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EROL GIRT**
2704 COLLEGE AVENUE, APT 4
BERKELEY, CA 94705

cc: **DARBY & DARBY, PH.D.**
1500 K STREET NW, SUITE 250
WASHINGTON, DC 20005-1714

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AUG 31 2006

TECHNOLOGY CENTER 2100

Eric King
6093 East Pointe Lane
Warrenton, VA 20187

In re Application of: Brabec, et al.
Application No. 10/829,181
Filed: April 22, 2004
For: SYSTEM AND METHOD FOR MESSAGING TO MULTIPLE GATEWAYS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed January 11, 2006 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> 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..." 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.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism. In accordance with 37 CFR 1.102(c)(2)(iii), no fee is required.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to: a communication method for registering users for receiving messages and transferring each message to corresponding communication gateways; a communication system having a first messaging subsystem which may be coupled to an alert originator and to communication gateway(s); and a communication method which determines a set of destination devices for a message to be transferred to,

dropping any file attachments, calculating the number of pieces in which the message needs to be transferred, generating the message content, transferring an individual mail message for each piece based on the number of destination devices targeted, and minimizing the number of outgoing connections. The specification is directed to systems and methods for transmitting and receiving messages.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "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 activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

The mere fact that the instant invention acts to provide fast and reliable dissemination of (emergency) information to (emergency) response personnel does not provide a sufficient nexus to "countering terrorism". As set forth in MPEP §708.02(XI), "The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism". As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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1425 K STREET NW
SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:
Yoshinori Uchida et al	:
Application No. 10/829,183	: DECISION GRANTING PETITION
Filed: April 22, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1137-837	:

This is a decision on the petition, filed August 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 25, 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 2683 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Date Mailed : 04/18/08

Patent No. : 7046409 B2
Inventor : KIHARA, NOBUHIRO
Patent Issued : 05/16/06
Docket No. : **252115US6**

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.

Inspection of the file of the application for the patent reveals that in columns 7 and 8, lines 26, 38, 44 and 50 are printed in accordance with the record (no fee or authorization to charge fee). **"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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

Lmn

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FOLEY & LARDNER LLP
3000 K STREET, N.W.
SUITE 500
WASHINGTON, DC 20007-5143

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:
Birgit C. Hofman	:
Application No. 10/829,216	:
Filed: April 22, 2004	:
Attorney Docket No.	:
041191-0108	:

This is a decision on the petition filed May 27, 2005, pursuant to 37 C.F.R. §3.81(b), to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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In re Application of	:
Birgit C. Hofman	:
Application No. 10/829,217	:
Filed: April 22, 2004	:
Attorney Docket No.	:
041194-0107	:

This is a decision on the petition filed May 27, 2005, pursuant to 37 C.F.R. §3.81(b), to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction[2].

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004
[2] The request for Certificate of Correction was filed August 18, 2005 via facsimile as per Applicant.

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SUITE 500
WASHINGTON, DC 20007-5143

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JUL 27 2005
OFFICE OF PETITIONS

In re Application of	:
Birgit C. Hofman	:
Application No. 10/829,218	:
Filed: April 22, 2004	:
Attorney Docket No.	:
041191-0104	:

This is a decision on the petition filed May 27, 2005, pursuant to 37 C.F.R. §3.81(b), to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW Jul-05

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

JUL 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Birgit C. Hofmann	: DECISION DISMISSING PETITION
Application No. 10/829,221	: UNDER 37 CFR 3.81(b)
Filed: 22 April, 2004	:
Atty Docket No. 041194-0110	:

This is a decision on the petition, filed on 27 May, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's country of residence on the Fee(s) Transmittal form PTOL-85(b).

The request is **dismissed**.

Petitioner states that the correct assignee's country of residence is Switzerland, and that an incorrect country was unintentionally specified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to FLORFIS AG, BINNINGEN, SWITZERLAND.

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

[1] *See* Official Gazette of June 22, 2004

> 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 under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to FLORFIS AG, BINNINGEN, SWITZERLAND has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that FLORFIS AG, BINNINGEN, SWITZERLAND was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth FLORFIS AG, BINNINGEN, SWITZERLAND, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Application No. 10/829,221

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE IAP68
MAR 0 9 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Miyoshi et al.	Atty. Dkt.: 26H-007
Serial No.: 10/829,254	Art Unit: 3753
Filed: 4/22/2004	Examiner: LEE, Kevin L **Issue Fee Paid: January 17, 2006**
Title: APPARATUS FOR INHIBITING FUELS FROM FLOWING OUT OF FUEL TANKS	**Confirmation No.: 7239**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: Petition

PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.48(a)

Sir:

This petition is being filed pursuant to 37 C.F.R. §1.48(a) to correct the inventorship of the above-identified application.

In particular, pursuant to 37 C.F.R. 1.48(a)(1), it is submitted that the inventorship originally set forth in the executed declaration signed by claimed inventors Keiji Miyoshi Norihiro Yamada, Keisuke Yoshida and Tomohide Aoki dated April 12, 2004 was incomplete, and that the addition of fifth inventor Koji Miwa is necessary in order to accurately reflect the inventorship of the subject matter being claimed.

The error in inventorship occurred without deceptive intent by Koji Miwa. A Statement Under Rule 1.48(a)(2) executed by Mr. Miwa that evidences his lack of deceptive intent in being initially omitted as a named inventor, as well as a Supplemental Declaration executed by all inventors pursuant to 37 C.F.R. 1.48(a)(3), are included with this Petition.

In addition, pursuant to 37 C.F.R. 1.48(a)(5), a Statement Under 37 CFR 3.73(b), in which TOYODA GOSEI CO., LTD. (the original assignee of all rights in the present application in an original assignment executed by Keiji Miyoshi Norihiro Yamada, Keisuke Yoshida and Tomohide Aoki) consents to the addition of Mr. Miwa as an inventor in the above application, is attached.

Pursuant to 37 C.F.R. 1.48(a)(4), the required fee of $130.00 as set forth in 37 C.F.R. §1.17(i) is enclosed herewith by check. Any further charges may be charged to Deposit Account 50-1147.

Respectfully submitted,

David G. Posz
Reg. No. 37,701
Customer No. 23400

DGP/moa
Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191
(703) 707-9110

OIPE IAP68
MAR 09 2006
PATENT & TRADEMARK OFFICE

Based on PTO/SB/96(08-00)

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: TOYODA GOSEI CO., LTD.

Application No./Patent No. 10/829,254 Filed/Issue Date: April 22, 2004

Entitled: APPARATUS FOR INHIBITING FUELS FROM FLOWING OUT OF FUEL TANKS

TOYODA GOSEI CO., LTD. (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.),

states that it is:

1. [X] the assignee of the entire right, title, and interest; or
2. [ ] an assignee of less than the entire right, title and interest.

The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [X] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 015257, frame 0363, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From:_____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame_____, or for which a copy thereof is attached.

2. From:_____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame_____, or for which a copy thereof is attached.

3. From:_____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame_____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee, and consents on behalf of the assignee to the addition of Mr. Koji MIWA as an inventor in the above-identified pending application.

Feb. 27, 2006
Date

Katsuhiko NAKAYAMA
Typed or printed name

Katsuhiko Nakayama
Signature

General Manager, Intellectual Property Division
Title

OIPE IAP68
MAR 09 2006
PATENT & TRADEMARK OFFICE

Supplemental Declaration and Power of Attorney for Patent Application
特許出願宣誓書及び委任状
Japanese Language Declaration
日本語宣言書

下記の氏名の発明者として、私は以下の通り宣言します。

As a below named inventor, I hereby declare that:

私の住所、郵便住所、国籍は下記の私の氏名の後に記載された通りです。

My residence, post office address and citizenship are as stated next to my name.

下記の名称の発明に関して特許請求の範囲に記載され、特許出願している発明内容について、私が最初かつ唯一の発明者(下記の氏名が一つの場合)もしくは最初かつ共同発明者であると(下記の名称が複数の場合)信じています。

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

APPARATUS FOR INHIBITING FUELS FROM FLOWING OUT OF FUEL TANKS

上記発明の明細書(下記の欄でx印がついていない場合は、本書に添付)は、

☐ _____に提出され、米国出願番号またはPCT国際出願番号を _____とし、(該当する場合) _____に補正されました。

the specification of which is attached hereto unless the following box is checked:

☒ was filed on April 22, 2004 as United States Application Number or PCT International Application Number 10/829,254 and was amended on _____ (if applicable).

私は、特許請求範囲を含む上記補正後の明細書を検討し、内容を理解していることをここに表明します。

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

私は、連邦規則法典第３７編第１．５６項に規定されるとおり、特許性の有無について重要な情報を開示する義務があることを認めます。

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

私は、以下に記載する特許もしくは発明者証の外国出願について米国法典第３５編１１９条(a)-(d)項又は３６５条(b)項に基づく外国優先権を、又は以下に記載する米国以外の国の少なくとも一ヵ国を指定しているPCT国際出願について米国法典第３５編３６５(a)項に基づく外国優先権をここに主張するとともに、優先権を主張している本出願の前に出願された特許もしくは発明者証の外国出願又はPCT国際出願を、枠内をマークすることで以下に示します。

I hereby claim foreign priority under Title 35, United States Code, Section 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application for which priority is claimed.

Japanese Language Declaration
(日本語宣言書)

DGP

Prior Foreign Application(s)
外国での先行出願

Priority Not Claimed
(優先権主張なし)

	(Number) (番号)	(Country) (国名)	(Day/Month/Year Filed) (出願年月日)	
1.	2003-121783	JAPAN	25/April/2003	☐
2.				☐
3.				☐
4.				☐
5.				☐
6.				☐
7.				☐

☐ Additional Foreign Application(s) is(are) listed on the attached sheet which is incorporated herein by reference.

私は、下記の米国仮特許出願について第３５編米国法典１１９条(e)項に基づく権利をここに主張いたします。

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below.

(Application No.) (出願番号)	(Filing Date) (出願日)

(Application No.) (出願番号)	(Filing Date) (出願日)

私は、下記の米国特許出願について米国法典第３５編１２０条に基づく権利、又は米国を指定している下記の PCT 国際出願について米国法典第３５編３６５条(c)に基づく権利をここに主張します。 また、本出願の各請求範囲の内容が米国法典第３５編１１２条第１段で規定された方法で先行する米国特許出願又は PCT 国際出願に開示されていない限り、その先行出願の出願日以降で当該国内出願又は PCT 国際出願の出願日までの期間中に入手された、連邦規則法典第３７編１．５６項で定義された特許性の有無に関する重要な情報について開示義務があることを認識しています。

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s), or 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code Section 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of application.

Application No. (出願番号)	Filing Date (出願日)	Status : (現況)	Patented, (特許許可済)、	Pending, (係属中)、	Abandoned (放棄済)

Japanese Language Declaration
(日本語宣言書)

DGP

私は、私自身の知識に基いて本宣言書中で私が行う表明が真実であり、かつ私の入手した情報と私の信じるところに基く表明が全て真実であると信じていること、さらに故意になされた虚偽の表明及びそれと同等の行為は米国法典第１８編第１００１条に基き、罰金または拘禁、もしくはその両方により処罰されること、そしてそのような故意による虚偽の声明を行えば、出願した、又は既に許可された特許の有効性が失われることを認識し、よってここに上記のごとく宣誓を致します。

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

委任状： 私は下記の発明者として、本出願に関する一切の手続を米特許商標局に対して遂行する弁理士または代理人として、下記の者を指名いたします。(弁護士、または代理人の氏名及び登録番号を明記のこと)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith (list name and registration number)

書類送付先 : (Send Correspondence to) PTO Customer No. 23400
Posz Law Group, PLC

唯一または第一発明者 (Full name of sole or first inventor):	Keiji MIYOSHI
発明者の署名 (Inventor's Signature)	Keiji Miyoshi
日付 (Date) :	02/28/2006
住所 (Residence) :	Nishikasugai-gun, Aichi-ken, Japan
国籍 (Citizenship):	Japan
郵便住所 (Post Office Address):	c/o TOYODA GOSEI CO., LTD. 1, Aza Nagata, Oaza Ochiai, Haruhi-cho, Nishikasugai-gun, Aichi-ken, 452-8564 Japan

☒ Additional Inventor(s) is (are) listed on the attached sheet which is incorporated herein by reference.

Japanese Language Declaration
(日本語宣言書)

DGP

第二共同発明者 (Full name of second joint inventor) :	Norihiro YAMADA
発明者の署名 (Inventor's Signature)	Norihiro Yamada
日付 (Date) :	2/28/2006
住所 (Residence) :	Nishikasugai-gun, Aichi-ken, Japan
国籍 (Citizenship) :	Japan
郵便住所 (Post Office Address) :	c/o TOYODA GOSEI CO., LTD. 1, Aza Nagata, Oaza Ochiai, Haruhi-cho, Nishikasugai-gun, Aichi-ken, 452-8564 Japan

? Additional Inventor(s) is (are) listed on the attached sheet which is incorporated herein by reference.

Japanese Language Declaration
(日本語宣言書)

DGP

第三共同発明者 (Full name of third joint inventor) :	Keisuke YOSHIDA
発明者の署名 (Inventor's Signature)	keisuke Yoshida
日付 (Date) :	02/27/2006
住所 (Residence) :	Nishikasugai-gun, Aichi-ken, Japan
国籍 (Citizenship) :	Japan
郵便住所 (Post Office Address) :	c c/o TOYODA GOSEI CO., LTD. 1, Aza Nagata, Oaza Ochiai, Haruhi-cho, Nishikasugai-gun, Aichi-ken, 452-8564 Japan

? Additional Inventor(s) is (are) listed on the attached sheet which is incorporated herein by reference.

Japanese Language Declaration
(日本語宣言書)

DGP

第四共同発明者 (Full name of fourth joint inventor) :	Tomohide AOKI
発明者の署名 (Inventor's Signature)	Tomohide Aoki
日付 (Date) :	2/28/2006
住所 (Residence) :	Nishikasugai-gun, Aichi-ken, Japan
国籍 (Citizenship) :	Japan
郵便住所 (Post Office Address) :	c/o TOYODA GOSEI CO., LTD. 1, Aza Nagata, Oaza Ochiai, Haruhi-cho, Nishikasugai-gun, Aichi-ken, 452-8564 Japan

? Additional Inventor(s) is (are) listed on the attached sheet which is incorporated herein by reference.

Japanese Language Declaration
(日本語宣言書)

DGP

第五共同発明者 (Full name of fifth joint inventor):	Koji MIWA
発明者の署名 (Inventor' s Signature)	Koji Miwa
日付 (Date):	February 28, 2006
住所 (Residence):	Toyota-shi, Aichi-ken Japan
国籍 (Citizenship):	Japan
郵便住所 (Post Office Address):	c/o TOYOTA JIDOSHA KABUSHIKI KAISHA 1, Toyota-cho, Toyota-shi, Aichi-ken, 471-8571, Japan

O I P E IAP68
MAR 09 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Miyoshi et al.	Atty. Dkt.: 26H-007
Serial No.: 10/829,254	Art Unit: 3753
Filed: 4/22/2004	Examiner: LEE, Kevin L **Allowed: October 20, 2005**
Title: APPARATUS FOR INHIBITING FUELS FROM FLOWING OUT OF FUEL TANKS	**Confirmation No.: 7239**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT UNDER 37 CFR 1.48(a)(2)

Sir:

I, Koji MIWA, hereby state that I was originally omitted as a named inventor in the above identified pending U.S. patent application, and that such error in inventorship occurred without deceptive intention on my part.

Date: February 28, 2006

By: Koji Miwa
Koji MIWA

IFW DAC $

This Form Based on PTO/SB/21

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

OIPE IAP68 MAR 0 9 2006 PATENT & TRADEMARK OFFICE

Application Number	10/829,254
Filing Date	April 22, 2004
First Named Inventor	MIYOSHI et al.
Group Art Unit	3753
Examiner Name	LEE, Kevin L
Attorney Docket Number	26H-007

ENCLOSURES ***(check all that apply)***

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [x] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] To Convert a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Small Entity Statement
- [ ] Request of Refund
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Additional Enclosure(s) *(please identify below):*
  - Petition to Correct Inventorship under 37 CFR 1.48(a)
  - Supplemental Declaration
  - Statement under 37 CFR 1.48(a)(2)
  - Statement under 37 CFR 3.73(b)

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	**Posz Law Group, PLC** **David G. Posz, Reg. No. 37,701**
Signature	
Date	March 9, 2006

O I P E IAP68
MAR 09 2006
PATENT & TRADEMARK OFFICE

PTO/SB/17 (12-04)
Approved for use through 07/31/2006. OMB 0651-0032
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.

Effective on 12/8/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005

☐ Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 170

Complete if Known	
Application Number	10/829,254
Filing Date	April 22, 2004
First Named Inventor	MIYOSHI et al.
Examiner Name	LEE, Kevin L
Art Unit	3753
Attorney Docket No.	26H-007

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 50-1147 Deposit Account Name: Posz Law Group, PLC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charges fee(s) indicated below, **except for the filing fee**

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	$0
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims		Extra Claims		Fee ($)		Fee Paid ($)
	- 20 or HP =		x	$50	=	$0

HP = highest number of total claims paid for, if greater than 20

Indep. Claims		Extra Claims		Fee ($)		Fee Paid ($)
	- 3 or HP =		x	$200	=	$0

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims: Fee ($) _____ Fee Paid ($) _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $ ($ for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41 (a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
	- 100 =		/ 50 =		(round up to a whole number) x		=	$0

4. OTHER FEE(S) Fees Paid($)

Non-English Specification, $130 fee (no small entity discount)

Other: **Fee for Petitions to the Commissioner ($130) & Assignment Recordation Fee ($40)** $170

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	37,701	Telephone	(703) 707-9110
Name (Print/Type)	DAVID G. POSZ			Date	March 9, 2006

This collection of information is required by 37 CFR 1.136. 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 30 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 09102006

DATE : Mar. 17, 2006

TO SPE OF : ART UNIT 2882 (Edward Glick)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,952,464 10/829,257

A response is requested with respect to the accompanying request for a certificate of correction. This response is for an IFW application, **please send this form with your decision - to be scanned into the IFW contents as DOC CODE: COCX**.

then return a message in MADRAS to Team: PUBSCofC, User: employee (named below). Please complete this form and have it scanned, within **7** days.

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.

Your denial or approval decision is needed below.

Thank You For Your Assistance

sp STM / STAN POWELL

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

SPE

2882

Art Unit

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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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE, SUITE 101
ELLICOTT CITY, MD 21043

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Deok-Hoon Kim	:	
Application No. 10/829,273	:	DECISION GRANTING PETITION
Filed: April 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MR2685-154	:	

This is a decision on the petition, filed July 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 13, 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 2811 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), 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).*