UNITED STATES PATENT AND TRADEMARK OFFICE

6-28-08

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,255,807
Inventors(s) : Senda, et. al.
Ser. No. : 10/829,291
Issued : August 14, 2007
Title : BOND MAGNET AND FERRITE MAGNETIC POWDER FOR BOND MAGNET
Docket No. : 12065-0013

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 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 105

Clark & Brody
1090 Vermont Avenue, NW, Suite 250
Washington, DC 2005

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1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,255,807 :
Issue Date: August 14, 2007 :
Application No. 10/829,291 : DECISION ON PETITION
Filed: April 22, 2004 :
Patentee(s): Masayasu Senda, et. al. :

This is a decision on the request under 37 CFR 3.81[1] filed on April 2, 2008, to correct the name of the assignee on the front page of the above patent by way of a certificate of correction.

The petition is **dismissed**.

37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee, but ***prior to issuance of a patent***.

Petitioner requests issuance of a Certificate of Correction in the name of "Dowa Electronics Materials Co., Ltd, Tokyo, JP and Nippon Bengara Kogyo Co., Ltd.". However, U.S. Patent and Trademark Office assignment records fail to show that an assignment listing the name of the assignee as "Dowa Electronics Materials Co., Ltd.", was submitted for recordation **prior** to issuance of the above patent. Therefore, a Certificate of Correction would not be in order.

This patent file is being referred to the Certificates of Correction Branch for review of the additional corrections requested in the Certificate of Correction filed April 2, 2008.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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Stuart D. Frenkel
3975 University Drive, Suite 330
Fairfax VA 22030

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AUG 22 2006

OFFICE OF PETITIONS

In re Application of
Joel R. **STUDIN**
Application No. 10/829,316
Filed: April 21, 2004
Attorney Docket No. SDF 04-14

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 5, 2006.

The request is **APPROVED**.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

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AUG 16 2006

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

In re Application of:
SAJIMA, TAKAHIRO ET AL.
Serial No.: 10/829,341
Filed: April 22, 2004
Docket: 3673-0174PUS1
Title: GOLF BALL

DECISION ON PETITION TO ADMIT AMENDMENT AFTER ALLOWANCE UNDER 37 CFR 1.132

This is a decision on the petition filed December 23, 2005 to admit the February 28, 2005 amendment to the claims after the allowance of the current application.

The petition is **dismissed as moot**.

In his December 23, 2005 petition, the applicant requested reconsideration of the November 23, 2005 examiner Action not entering the February 28, 2005 amendments in the currently allowed application. In support of his petition, the applicant argues that no additional search would be required, no more than a "cursory" review would be required, and there would be no "materially added work on the part of the USPTO."

The record shows that:

1) On December 15, 2004 the examiner issued a Notice of Allowance for the originally submitted claims 1-3.
2) On February 28, 2005 the applicant submitted new dependent claims 4-10. The applicant alleged in his remarks that "no patentability issues arise and no further examination issues arise."
3) On November 23, 2005 the examiner issued an Action stating that "Applicant is not allowed to further prosecution by adding claims after a notice of allowance."
4) On December 23, 2005 the applicant filed the present petition, arguing that the amendment after allowance should be admitted.

Applicable Rules and Regulations

37 CFR 1.312 states: "No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of

the primary examiner, approved by the Director, without withdrawing the application from issue."

MPEP 714.16 states in relevant part: "As to amendments . . . that add a claim, the remarks accompanying the amendment must fully and clearly state the reasons on which reliance is placed to show:

(A) why the amendment is needed;
(B) why the proposed amended or new claims require no additional search or examination;
(C) why the claims are patentable; and
(D) why they were not presented earlier."

MPEP 714.16(I) states: "37 CFR 1.312 was never intended to provide a way for the continued prosecution of an application after it has been passed for issue. When the recommendation is against entry, a detailed statement of reasons is not necessary in support of such recommendation. The simple statement that the proposed claim is not obviously allowable and briefly the reason why is usually adequate. Where appropriate, any one of the following reasons is considered sufficient:

(A) an additional search is required;
(B) more than a cursory review of the record is necessary; or
(C) the amendment would involve materially added work on the part of the Office, e.g., checking excessive editorial changes in the specification or claims.

Where claims added by amendment under 37 CFR 1.312 are all of the form of dependent claims, some of the usual reasons for non-entry are less likely to apply although questions of new matter, sufficiency of disclosure, or undue multiplicity of claims could arise."

Analysis

The petitioner argues that the amended claims should be entered because the claims were disclosed in the original specification and the claims do not pose any burden on the USPTO for additional searches. In the remarks accompanying the amendment, the applicants stated that "since all of new claims 4-10 depended on allowed claim 1, no patentability issues arise and no further examination issues arise." In his petition, the petitioner relies on MPEP 714.16(I) which states that inappropriate "continued prosecution" occurs when: "(A) an additional search is required; (B) more than a cursory review of the record is necessary; or (C) the amendment would involve materially added work on the part of the Office, e.g., checking excessive editorial changes in the specification or claims." The petitioner argues that because none of the three conditions above have been met, the amended claims should be entered. Moreover, the petitioner also argues that since the new claims are dependent claims, they pose a lesser burden on the USPTO. The petitioner further argues "that the Notice of Allowance was the first Office Action, such that applicants did not have a chance to present the dependent claims 4-10 at an earlier stage in the prosecution, other than submitting these claims with the original application, after having a chance to review the position of the Patent Examiner."

The petitioner's argument is not persuasive. The petitioner asserts that an amendment after allowance shall be admitted as long the amendment does not introduce new matter or unduly

burden the USPTO. However, under 37 CFR 1.312, "No amendment may be made *as a matter of right* in an application after the mailing of the notice of allowance." (*Emphasis added*). Accordingly, only upon a proper showing under MPEP 714.16 *may* an amendment after allowance be considered.

The petitioner's reliance on MPEP 714.16(I) is misplaced. MPEP 714.16(I) merely provides a guide for examiners to determine when an amendment after allowance is "continued prosecution." The three statements "(A) an additional search is required; (B) more than a cursory review of the record is necessary; or (C) the amendment would involve materially added work on the part of the Office, e.g., checking excessive editorial changes in the specification or claims" are a list of possible reasons for an examiner to reject an amendment after allowance. However, before the examiner must determine if the amendment is "continued prosecution" under MPEP 714.16(I), the applicant has a different burden under MPEP 714.16.

MPEP 714.16 states in relevant part: "As to amendments . . . that add a claim, the remarks accompanying the amendment must fully and clearly state the reasons on which reliance is placed to show: (A) why the amendment is needed; (B) why the proposed amended or new claims require no additional search or examination; (C) why the claims are patentable; and (D) why they were not presented earlier."

The petitioner's remarks filed on February 28, 2005 and the statements made in the present petition do not satisfy the requirements of MPEP 714.16. The petitioner satisfy MPEP 714.16 (B), but do not satisfy the requirements of MPEP 714.16 (A), (C), or (D).

The petitioner's response to MPEP 714.16 (A) is deficient. The petitioner does not supply any reason under MPEP 714.16 (A) for why the amendment is needed. An adequate reason under MPEP 714.16 (A) requires a showing that the application is deficient as presented and needs correction.

The petitioner's response to MPEP 714.16 (C) is deficient. The petitioner stated in the February 28, 2005 remarks that "since all of new claims 4-10 depended on allowed claim, no patentability issues arise . . ." An adequate showing under MPEP 714.16 (C) requires each claim to be supported by the original specification, compared with each reference of record, and the patentable novelty in each claim relative to each reference to be clearly pointed out.

The petitioner's response to MPEP 714.16 (D) is deficient. The petitioner states "that the Notice of Allowance was the first Office Action, such that applicants did not have a chance to present the dependent claims 4-10 at an earlier stage in the prosecution, other than submitting these claims with the original application, after having a chance to review the position of the Patent Examiner." An adequate reason under MPEP 714.16 (D) requires that the petitioner make a stronger showing than merely not anticipating an allowance on the first Office Action.

The remarks and petition are deficient because they do not adequately show why the amendment is needed, why the claims are patentable, or why they were not presented earlier. Since the application has become matured in U.S. Pat. 6,986,720 on Jan. 17, 2006, then, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young, Director
Technology Center 3700

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OTTAWA, CANADA K1P 1-J9

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OFFICE OF PETITIONS

In re Application of	:	
Neil Aubrey Tarr	:	DECISION ON PETITION
Application No. 10/829,356	:	TO WITHDRAW
Filed: April 22, 2004	:	FROM RECORD
Attorney Docket No. PAT 993-2 US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 25, 2004 and November 15, 2005.

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

A review of the file record indicates that on December 13, 2005 the power of attorney to Borden Ladner Gervais, LLP was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Hicks & Associates
Raven's Court
709 Main Street, Suite 300
Canmore AB T1W-2B2 CA Canada

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
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SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Patent No. 7,331,443	:	
Issue Date: February 19, 2008	:	
Application No. 10/829,387	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 60291.000023	:	

This is a decision on the petition filed October 30, 2007, and Request for Certificate of Correction filed April 7, 2008 which are being treated as a request under 37 CFR 3.81(b)[1] to amend the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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Mailed: 2-7-07

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In re Application of : DECISION
Hermann Wagner et al. : ON PETITION
Serial No.: 10/829,392 :
Filed : April 22, 2004 :
For: METHOD AND APPARATUS FOR REMOVING AN EDGE REGION OF A LAYER APPLIED TO A SUBSTRATE AND FOR COATING A SUBSTRATE AND A SUBSTRATE :

This is a decision on a PETITION OF THE RESTRICITON REQUIREMENT UNDER 37 CFR 1.181 filed September 06, 2006 requesting a review of the restriction requirement of the Office action mailed March 10, 2006 and made FINAL in the Office action mailed June 22, 2006.

The application was filed with a total of 43 claims. A restriction requirement was mailed on March 10, 2006 dividing 43 claims into three separate and distinct inventions.

Group I contains claims 1-10,24-31,34-35, and 38-43 drawn to a method classified in class 438.

Group II contains 11-20 drawn to an apparatus classified in class 156.

Group III contains claims 21-23,32-33, and 36-37 drawn to a product classified in class 428.

It is noted that in a restriction requirement, the initial burden is on the Office to establish a *prima facie* case that (a) the claimed inventions are independent or distinct and (b) there would be a serious or undue burden on the examiner if restriction were not required. See MPEP 803. With respect to (a) above, the examiner's basis for the restriction was that claims 1-10,24-31,34-35, and 38-43 are drawn to a method; claims 11-20 are drawn to an apparatus; and claims 21-23,32-33, and 36-37 are drawn to a product. And, with respect to (b) above, it was indicated that the inventions had acquired a separate status in the art as shown by their different classification. See page 2 of the action mailed March 10, 2006.

Applicant's response was to elect Group I with traverse. The traversal was on the grounds that the restriction there is no convincing evidence of sufficiently distinct inventions.

> *Group I is said to be directed to a process whereas Group II is said to be directed to an apparatus for practicing the process of Group I. In the Restriction, it is alleged that the apparatus can be used to practice another materially different process, namely*

the removal of contamination from a wafer. Firstly, it is not seen how the asserted hypothetical process is "materially different" as both processes would apparently involve removal of undesired material from a substrate. Secondly, the Restriction does not explain how the apparatus could be used to remove only particles, rather than a layer of material.

As for Groups I and III, the restriction asserts that the process can be used to make another materially different product such as a product wherein a center region of a layer is remove. However, claim 1 of Group I expressly recites that the process involves "removing said edge region by evaporation by means of said laser beam."

With respect to the Restriction between Groups I and II, the Examiner presently argues that "the process as claimed can be practiced by a materially different apparatus, such as a plasma etcher." However, this is incorrect. The claimed method expressly recites that the edge region is removed by a laser beam. The Examiner presents no rationale as to how a plasma etcher can remove an edge region by the use of laser beam. Thus, the Examiner has not shown that the method can be practiced be a materially different apparatus. With respect to the Restriction between Groups I and III, the Examiner presently argues that the product as claimed can be made by a materially different process, such as a plasma etching through a mask. However, the Examiner presents no rationale as to how a plasma etching process will achieve the same type of profile for the removed edge region of the layer. See, for example, applicants' Figure 5a of a profile measurement of an edge region that has been removed in accordance with the claimed method. Thus, the Examiner has not shown that the product can be made be a materially different process.

With respect to applicants' argument, it is noted that under MPEP 806.05(e) the examiner is required to state that either that the process as claimed can be practiced by another materially different apparatus or by hand; or that the apparatus as claimed can be used to practice another materially different process. However, the examiner is not obligated to provide documentation. In the action mailed March 10, 2006, the examiner set forth a materially different process, such as removing particulate contamination from a wafer, and in the action mailed June 22, 2006 the examiner described a materially different apparatus such as a plasma etcher. Applicants argue that a process of using a plasma etcher would not remove an edge region by a laser beam as recited in the instant process claim. However Argument such is purely conclusionary since no evidence has been shown to indicate why an apparatus equipped with a plasma etcher would not be able to remove an edge region.

With respect to applicants' argument , it is noted that under MPEP 806.05(f) the examiner is required to state that either the claimed process can be used to a materially different product or that a materially different process can yield the claimed product. However, the examiner is not obligated to provide documentation. In the action mailed March 22, 2006, the examiner set forth a process can be used to a materially different product , such as one wherein a removing a center rejoin of a layer applied to a substrate for use in a microlithography process, and in the action mailed June 22, 2006 the examiner described a materially different process such as the products claimed can be made by a materially different process such as, plasma etching a masked area to remove the substrate. Applicants argue that a plasma etching process will not achieve the same type of profile for the removed edge region of the layer. Argument is purely conclusionary since

no evidence has been shown to indicate why a process of plasma etching would not be able achieve the same type of profile for the removed edge region of the layer.

In view of the above discussion, having weighed both the examiner's position and the applicants' arguments, it is concluded that, on the balance, the restriction is proper.

The petition is DENIED.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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In re Application of :
Han-Gyoo Kim :
Application No. 10/829,399 : DECISION ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 34255/US/2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 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 October 10, 2008, as required by the Notice of Allowance and Fee(s) Due mailed July 10, 2008. Accordingly, the application became abandoned on October 11, 2008. A Notice of Abandonment was mailed November 3, 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Charles Ragsdale :
Application No. 10/829,407 :
Filed: April 20, 2004 :
Attorney Docket No. 002558-070600US :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 7, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 13, 2006. 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 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2624 for examination in due course.

Charlema R. Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/829,407	04/20/2004	Charles W. Ragsdale	002558-070600US

CONFIRMATION NO. 5959

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

Date Mailed: 09/01/2006

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

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

The projected publication date is 12/07/2006.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Fenton, et al. :
Application No. 10/829,412 :
Filed: 21 April, 2004 :
Attorney Docket No. A36133 - 072841.0230 :

NOTICE

This is in response to the paper filed 9 July, 2008, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

NOTE: Petitioner is reminded that the regulations require that Petitioner:

- Set forth both the application number and the patent number when submitting materials for a patented matter; and

- File for each application/patent an accounting effective the actual date of loss of status, specifying the date(s), the amount(s) paid, amount(s) actually due, and the difference(s) due and payable.

The regulations at 37 C.F.R. §1.28, and in particular at 37 C.F.R. §1.28(c)(2)(ii)—with the penalty provisions at 37 C.F.R. §1.28(c)(3)—provide:

> **§ 1.28 Refunds when small entity status is later established; how errors in small entity status are excused.**
> (a)*Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

(b)*Date of payment.*

(1)The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid;

(2)The date when a deficiency payment is paid in full determines the amount of deficiency that is due, pursuant to paragraph (c) of this section.

(c)*How errors in small entity status are excused.* If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:

(1)*Separate submission required for each application or patent.* Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency payments (*e.g.*, checks) and itemizations are required for each application or patent. See § 1.4(b).

(2)*Payment of deficiency owed.* The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i)*Calculation of the deficiency owed.* The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii)*Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A)Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B)The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C)The deficiency owed amount (for each fee erroneously paid); and

(D)The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3) *Failure to comply with requirements.* If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

> (d) *Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office 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]

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.

This file is being released to the Technology Center for such processing as necessary in due course.

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

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

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

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 18 2009

OFFICE OF PETITIONS

In re Application of :
Fenton, et al. :
Application No. 10/829,412 :
Filed: 21 April, 2004 :
Attorney Docket No. A36133 - 072841.0230 :

DECISION

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the 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.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 9 March, 2009, with reply due under a non-extendable deadline on or before 9 June, 2009.

The application went abandoned by operation of law after midnight 9 June, 2009.

The Office does not appear to have mailed the Notice of Abandonment before the instant petition was filed.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of the Fees Due, along with a request for continued examination (RCE) with fee and a submission pursuant to 37 C.F.R. §1.114 in the form of an information disclosure statement and made the statement of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

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 **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]

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.

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.[3]))

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to 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.

It appears that 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 the Technology Center/AU 3781 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 TC/AUin response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

APR 27 2005
PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

FAIRLIE et al.

Group Art Unit: ~~1745~~ 1743

Appln. No. 10/829,434

Examiner: Unknown

Filed: April 22, 2004

Title: Energy Distribution Network

* * * * *

April 27, 2005

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c) AND MPEP § 708.02, VI

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

Sir:

Applicant hereby petitions to make the above-identified application special under the procedures set forth in sub-section VI of MPEP 708.02, as materially contributing to the discovery or development of energy resources.

No petition fee is required.

An embodiment of the invention relates to an energy distribution network including at least one hydrogen generator connected to at least one source of electric energy; at least one hydrogen storage reservoir for storing at least some of the hydrogen produced by the at least one hydrogen generator; a data collector connected to the at least one source of electric energy for collecting data from the at least one source of electric energy; and a device for converting hydrogen into electric energy.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAY 10 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Tetsurou Tanimoto	: DECISION ON REQUEST FOR
Patent Number	: 7598469	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,444	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/17/2010

Applicant : Tetsurou Tanimoto
Patent Number : 7598469
Issue Date : 10/06/2009
Application No: 10/829,444
Filed : 04/22/2004

: 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 **1501** 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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KAREN B. TRIPP
ATTORNEY AT LAW
P.O. BOX 1301
HOUSTON, TX 77251-1301

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OFFICE OF PETITIONS

In re Application of :
Shumway, William W. :
Application No. 10/829,484 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. HALB:052 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1796 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 11 2010

Karen B. Tripp
Attorney at Law
P.O. Box 1301
Houston, TX 77251-1301

In re Application of :
William W. Shumway :
Application No. 10/829,484 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. HALB:052 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 18, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is May 19, 2009. A Notice of Abandonment was mailed on August 31, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

As to item 1, the amendment filed on October 29, 2009, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/829,484	**Applicant(s)** SHUMWAY, WILLIAM W.	
	Examiner JOHN J. FIGUEROA	**Art Unit** 1796	

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

THE REPLY FILED 29 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3). a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the evidence submitted with Applicant's response is insufficient to overcome the outstanding 35 U.S.C. 112, first paragraph, new matter rejection in the Final Rejection of 2/18/2009. The abstracts provided by Applicant do not disclose the chemical composition of the specific ALCOGUM materials used in the Examples and Tables of the present specification, such as ALCOGUM L344; SL290; and SL117. Particular product specifications [or other evidence] showing the chemical structure composition of the specific aforementioned ALCOGUMs; ALCOSPERSE 747; and/or ALCOQUEST 747 to be the claimed ethylacrylate/methacrylic acid polymers are deemed necessary to overcome the new matter issues raised in the rejection. Accordingly, the response does not place the application in condition for allowance.

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of :
William W. Shumway :
Application No. 10/829,484 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. HALB:052 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, February 18, 2009, 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 19, 2009. A Notice of Abandonment was mailed on August 31, 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 RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition decision mailed March 11, 2010, dismissed the petition filed October 29, 2009 for failure to provide a proper reply. The renewed petition includes a proper reply.

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

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received May 11, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
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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JENNER & BLOCK, LLP
330 N. WABASH AVENUE
CHICAGO IL 60611

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
William David Shaefer, et al. :
Application No. 10/829,493 : DECISION ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 37041-11449 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 13, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

The instant application was filed April 22, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed non-provisional application after issuance of the application into a patent. See MPEP 1481

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 fails to satisfy item (1) above. In this regard, the amendment submitted with the petition was filed concurrently with the payment of the issue fee is not acceptable. Accordingly, the required submission of a Certificate of Correction would be the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior filed non-provisional application after

issuance of the application into a patent and satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, 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
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to the April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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JENNER & BLOCK, LLP
330 N. WABASH AVENUE
CHICAGO IL 60611

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
William David Shaefer, et al. :
Application No. 10/829,493 : DECISION ON PETITION
Filed: April 22, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 37041-11449 :

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

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2612 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/829,493	04/22/2004	2612	2670	37041-11449	1	1

CONFIRMATION NO. 6931

CORRECTED FILING RECEIPT

2574
JENNER & BLOCK, LLP
330 N. WABASH AVENUE
CHICAGO, IL 60611

Date Mailed: 06/12/2009

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

Applicant(s)

William David Schaefer, Grand Rapids, MI;
David W. Caldwell, Holland, MI;

Power of Attorney: The patent practitioners associated with Customer Number 02574

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/464,483 04/22/2003
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: 06/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/829,493**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-LAYER SOLID STATE KEYBOARD

Preliminary Class

341

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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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.
10/829,505	04/22/2004	Shan X. Wang	STAN-571	6970

77974 7590 12/03/2009

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

EXAMINER	
DO, PENSEE T	

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
12/03/2009	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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DEC 01 2009

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

In re Application of:
Wang et al.
Serial No.: 10/829,505
Filed: April 22, 2004
Attorney Docket No **STAN-571**

DECISION ON PETITION
FOR RELIEF OF FEES

This is in response to applicant's petition under 37 CFR. § 1.181(B), filed on March 27, 2008, to receive relief of the extension fees in association of a response submitted by applicants.

A review of the file history shows that the examiner mailed a Notice of Non-Compliant Amendment on October 2, 2007.

Applicants state that the action was never received and only discovered that an action was mailed during a status check of PAIR. Based on the evidence presented, it is requested that applicants receive relief from the fees associated with the filing of the response to the Notice of Non-Compliant Amendment which required extensions of time.

Applicants' petition is **GRANTED**.

Accordingly, applicants will receive a **DA** refund of $1,100 for the five month extension charged.

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 at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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THE BABCOCK & WILCOX COMPANY
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
BARBERTON, OH 44203

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of:
Ross G. Robinson
Application No. 10/829,514
Filed: April 22, 2004
Title of Invention: EXTERNAL SLEEVE ASSISTED TUBE BENDING

DECISION ON PETITION

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed April 20, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed June 28, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned August 29, 2004. A Notice of Abandonment was mailed March 18, 2005.

With the instant petition, Applicant has filed replacement drawings.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/12/2010

Applicant	: Duane G. Krzysik	: DECISION ON REQUEST FOR
Patent Number	: 7666824	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/829,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/829,519	04/22/2004	2173	1126	200315006-1	4	35	4

CONFIRMATION NO. 7356

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

CORRECTED FILING RECEIPT

OC000000013575621

Date Mailed: 08/19/2004

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)

Steven John Simske, Fort Collins, CO;
Robert Eugene Chalstrom, Fort Collins, CO;
Xiaofan Lin, San Jose, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2004

Projected Publication Date: 10/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for presenting content to an audience

Preliminary Class

345

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

GRANTED

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

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

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

NOT GRANTED

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

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HOWSON AND HOWSON
SPRING HOUSE CORPORATE CENTER
PO BOX 457
SPRING HOUSE PA 19477

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Shinji Kawashima	:	
Application No. 10/829,524	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. KIN101USA	:	

This is a decision on the petition under 37 CFR 1.137(a), filed May 31, 2005, which are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed August 31, 2004. This Office action set a shortened period for reply of two months. No extensions of time were obtained. Accordingly, no reply having been received, the above identified application became abandoned on November 1, 2004. A Notice of Abandonment was mailed on May 13, 2005.

Petitioner points the Office's attention to the fact that a unrelated law firm mailed a Power of Attorney and Change of Address for application no. 09/829,524. However, the transmittal letter was labeled with the instant application no. 10/829,524. Accordingly, the Office erroneously enter the papers into the instant application. As such, the Notice to File Corrected Application Papers was mailed to the unrelated law firm.

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

Given the basis for granting this decision, the $250 petition fee has been refunded to Deposit Account No. 08-3040.

The correspondence address for the instant application has been corrected. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to the Office of Initial Patent Examination for re-mailing of the Notice to File Corrected Application Papers originally mailed on August 31, 2004, setting a new two month 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

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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of :
Adam Almen :
Application No. 10/829,544 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No.:2010.3-US-01 :
Title of Invention: APPARATUS AND :
METHOD FOR MONITORING HEART RATE :

This is a decision on the petition filed August 13, 2004, requesting in effect, that a Notice to File Omitted Items in a Nonprovisional Application ("Notice") mailed August 3, 2004, be withdrawn.

The application was filed on April 22, 2004. However, on August 3, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of April 22, 2004 but figure 19 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 19 was filed on April 22, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists 19 sheets of drawings. The petition is further accompanied by a copy of figure 19 as described in the specification.

Applicant's postcard receipt is prima facie evidence that 19 sheets of drawings, including figure 19 were received on April 22, 2004, but one page containing figure 19 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 19 was received on April 22, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. No petition fee is due. Accordingly, deposit account 50-1038.

Since figure 19 as described in the specification cannot be located in the Office, figure 19 supplied on August 13, 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 22, 2004, using substitute figure 19 supplied on August 13, 2004.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Thompson & Knight, LLP
Suite 3300
1700 Pacific Avenue
Dallas, TX 75201

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OFFICE OF PETITIONS

In re Application of Delaware :
Application No. 10/829,553 : Decision on Petition
Filing Date: April 22, 2004 :
Attorney Docket No. 0945RF-42268 :

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

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed January 31, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on May 1, 2005. A Notice of Abandonment was mailed on September 8, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is signed by James Murphy, who was not an attorney of record at the time the application became abandoned. It appears that Murphy was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Murphy that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. 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 a portion of the delay 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Benjamin A. Knott et al :
Application No. 10/829,557 : DECISION ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 130332.00073 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2007, to revive the above-identified application.

The petition is **GRANTED.**

No Notice of Abandonment has been mailed in this application. However, this application became abandoned by operation of law for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 28, 2006 (November 25, 2006, the due date, is a Saturday).

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 (RCE), $790 filing fee, and submission as required by 37 CFR 1.114 (reply filed on November 27, 2006), (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply within the meaning of 37 CFR 1.113 to the Office action of August 25, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2614 for processing of the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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APR 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Gilk : DECISION ON PETITION
Application No. 10/829,577 :
Filed: April 22, 2004 :
Docket No.: 12033/161/102 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 13, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed October 12, 2005. The Notice set a three month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 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 Patent Publication for further processing.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Application No. 10/829,590 : DECISION
Filing Date: 21 April, 2004 :
Attorney Docket No.: 034172-017 :

This is a decision on the petition filed on 4 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; the petition under 37 C.F.R. §1.137(a) is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

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.

Moreover, 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.

NOTES:

The Revocation/Power of Attorney submitted is acknowledged and entered.

Petitioner apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay. To this end, the regulatory statement of unintentional delay by the Applicant, former Counsel or Assignee (with the required certificate under 37 C.F.R. §3.73(b)) will be necessary.

(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."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non final Office action mailed on 6 July, 2005, with reply due under a non-extendable deadline on or 6 October, 2005;
- the instant application went abandoned after midnight 6 October, 2005;
- the Office mailed a Notice of Abandonment on 13 February, 2005;
- on 4 May, 2006, Petitioner filed the instant petition, further supplemented, requesting that

[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

the Office "set aside the holding of abandonment"[2] and "requests that the application be revived"[3]–which are alternative requests for relief–the former under 37 C.F.R. §1.181 and the latter under 37 C.F.R. §1.137(a) or (b)–and making the argument that Petitioner provided to the Office ON 9 November, 2004, Notice of the change of address (under 37 C.F.R. §1.33 and consistent with MPEP §403[4] and

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[2] At the first page of the petition.

[3] At the third page of the petition.

[4] The commentary at MPEP §403 provides, in pertinent part:

403 Correspondence — With Whom Held [R-3]

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * *

37 CFR 1.33(a) provides for an applicant to supply an address to receive correspondence from the U.S. Patent and Trademark Office so that the Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person.

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application. The correspondence address must appear either in an application data sheet (37 CFR 1.76) or in a clearly *>identifiable< manner elsewhere in any papers submitted with an application filing. Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover>, for example,< the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration. >If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.<

37 CFR 1.33(a) requests the submission of a daytime telephone number of the party to whom correspondence is to be addressed. While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to writing. The telephone number would be changeable by any party who could change the correspondence address.

37 CFR 1.33(a)(1) provides that any party filing the application and setting forth a correspondence address could later change the correspondence address provided that a 37 CFR 1.63 oath/declaration by any of the inventors has not been submitted. If one joint inventor filed an application, the person who may change the correspondence address would include only the one inventor who filed the application, even if another inventor was identified on the application transmittal letter. If two of three inventors filed the application, the two inventors filing the application would be needed to change the correspondence address. Additionally, any registered practitioner named in the application transmittal letter, or a person who has the authority to act on behalf of the party that will be the assignee (if the application was filed by the party that will be the assignee), could change the correspondence address. A registered practitioner named in a letterhead would not be sufficient, but rather a clear identification of the individual as being a representative would be required. A company (to whom the invention has been assigned, or to whom there is an obligation to assign the invention) who files an application, is permitted to designate the correspondence address, and to change the correspondence address, until such time as a (first) 37 CFR 1.63 oath/declara-tion is filed. The mere filing of a 37 CFR 1.63 oath/ declaration that does not include a correspondence address does not affect any correspondence address previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney >or agent< has been duly appointed to prosecute an application>,< correspondence will be held with the attorney >or agent< unless some other correspondence address has been given. >If an attorney or agent of record assigns a correspondence

address which is different than an address where the attorney or agent normally receives mail, the attorney or agent is reminded that 37 CFR 10.57 requires the attorney or agent to keep information obtained by attorney/agent – client relationship in confidence.< Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).

If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

* * *

I. < CUSTOMER NUMBER PRACTICE

A Customer Number (previously a "Payor Number") may be used to:

(A) designate the correspondence address of a patent application **>or patent< such that the correspondence address for the patent application >or patent< would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(i))<;

(B) designate the fee address (37 CFR 1.363) of a patent ** such that the fee address for the patent would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(ii))<; and

(C) submit a list of practitioners ** such that ** those practitioners associated with the Customer Number >would have power of attorney (37 CFR 1.32(a)(4)(iii))<.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.

Applicant may use either the same or different customer number(s) for the correspondence address, the fee address and/or a list of practitioners. The customer number associated with the correspondence address is the Customer Number used to obtain access to the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov. See MPEP § 1730 for additional information regarding PAIR.

* * *

The Office will also accept requests submitted electronically *via* a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number**>.<

Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the *Federal Register* at 61 FR 54622, 54623-24 (October 21, 1996), and in the *Official Gazette* at 1191 O. G. 187, 188-89 (October 29, 1996). >Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the *Official Gazette* at 1272 O.G. 24 (July 1, 2003).<

**>With Customer Number practice, a< patentee **>is also< able to designate a "fee address" for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a "fee address" by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the Office will send maintenance fee correspondence to the address associated with the Customer Number designated as the "fee address" and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.

The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (i.e., without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number >by submitting a corresponding "Request for Customer Number Data Change" (PTO/SB/124)< will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant >or assignee of the entire interest of the applicant< who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number *>is< optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application>, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3)<.

The Customer Number practice does not affect the prohibition against, and does not amount to, an appointment of a law firm (rather than specified practitioners). The Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment. The Office will permit an appointment of all of the practitioners associated with a specified Customer Number because the Office can ascertain from its records for the specified Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any othercorrespondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources. >Furthermore, Office computer systems do not allow for entry of both a power of attorney to a list of practitioners associated with a Customer Number and a list of practitioners.<

Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence

§603[5]) by virtue of the separate paper filed, to wit: the executed oath or declaration, and

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address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a *>Mail Stop< designation for correspondence related to a Customer Number ("**>Mail Stop EBC<"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this *>mail stop< designation. The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).

* * *

[5] The commentary at MPEP§603 provides in pertinent part:

601.03 Change of Correspondence Address [R-3]

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

**>

(a)Correspondence address and daytime telephone number.

When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:<

(1) *Prior to filing of § 1.63 oath or declaration by any of the inventors.* If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

*****

37 CFR 1.33(a) provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. **>If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. Additionally, applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).<

The submission of a daytime telephone number of the party to whom correspondence is to be addressed is requested pursuant to 37 CFR 1.33(a). While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to * writing. Any party who could change the correspondence address could also change the telephone number. 37 CFR 1.33(a)(1) provides that the party filing the application and setting forth a correspondence address may later change the correspondence address provided that an executed oath or declaration under 37 CFR 1.63 by any of the inventors has not been filed. If a registered attorney or agent filed the application, any other registered practitioners named in the transmittal letter may change the correspondence address. A registered practitioner named in a letterhead would not be considered as being named in the transmittal letter for purposes of changing the correspondence address. A clear identification of the individual as a representative would be required. If an application is filed by a company to whom the invention has been assigned or to whom there is an obligation to assign the invention, a person who has the authority to act on behalf of the company may change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address

to this end Petitioner provides, *inter alia*, what are averred to be true copies of the date-stamped ("NOV 09 2004 OIPE") receipt card (see: MPEP §503[6]) and oath/declaration.

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pursuant to 37 CFR 1.33(a)(1). The filing of an executed oath or declaration that does not include a correspondence address does not affect any correspondence address previously established on filing of the application, or changed pursuant to 37 CFR 1.33(a)(1).

Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. See MPEP § 403 for Customer Number Practice. In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. The original notice may either be sent to the Office of Enrollment and Discipline as notification to the Attor-ney's Roster of the change of address, or may be retained by applicant. See MPEP § 502.02.

Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).

See MPEP § 711.03(c) for treatment of petitions to revive applications abandoned as a consequence of failure to timely receive an Office action addressed to the old correspondence address.

The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

The obligation (see 37 CFR *>11.11<) of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the register is separate from the obligation to file a notice of change of address filed in individual applications. See MPEP § 402.

[6] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The argument, while interesting, is factually incorrect–the record reflects that the executed oath/declaration was filed on deposit on deposit of the application on 21 April, 2004.

On brief review of the record, Petitioner may have thought that the oath filed in November of 2004 was the first executed oath/declaration in response to a requirement in the 9 July, 2004, Notice of Missing Parts, however, that paper alerted Petitioner to fees and formalities requirements.

Thus, thereafter Petitioner was required to Notice the Office as to the change–not simply submit the papers. The information as to the address change was in a customer number inside the oath/declaration filed on 9 November, 2004, and Petitioner provided no Notice to the Office that a change was being submitted.

From a technical aspect, the provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), Petitioner waited ten (10) months after abandonment and three (3) months after Notice thereof to seek relief under the regulation.

Further, Petitioner is reminded that to take advantage of the provisions of 37 C.F.R. §1.8 and §1.10 certificates of mailing must appear on the papers submitted or on the transmittal letter/form therefor itemizing those papers.

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

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The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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.[7]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[8]

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.[9]

Delays in responding properly raise the question whether delays are unavoidable.[10] 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).[11]

And the Petitioner must be diligent in attending to the matter.[12] 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.[13]))

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[8] 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.

[9] 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.

[10] 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).

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

[12] 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.

[13] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[14]

Further, the commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal

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[14] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181[15]) requires that relief be sought within two (2) months of the act complained of.

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[15] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the "showing" or "timeliness" requirements described above.

As to the Allegations
of Unavoidable Delay

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

As of this writing Petitioner has not satisfied the "reply" and "showing/statement" requirement of the regulation.

As to the Allegations
of Unintentional Delay

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

As of this writing Petitioner has not satisfied the "reply" and "showing/statement" requirement of the regulation.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; and the petition as considered under 37 C.F.R. §1.137(a) is **dismissed**; and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[16]

[16] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[17]
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

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

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

[17] 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

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.
10/829,590	04/21/2004	Yi-Qun Li	034172-017	6712

7590 07/06/2005

Intematix Corporation
351 Rheem Blvd.
Moraga, CA 94556

EXAMINER	
KOSLOW, CAROL M	
ART UNIT	**PAPER NUMBER**
1755	

DATE MAILED: 07/06/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/829,590	LI ET AL	
	Examiner	Art Unit	
	C. Melissa Koslow	1755	

-- 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 _____.

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) *1-18* 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) *1-18* 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 *4/21/04, 11/9/04* 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: _____.

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

This application is claiming the benefit of a provisional application under 35 U.S.C. 119(e). However, this application was not filed within twelve months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application.

Note: If the day that is 12 months after the filing date of the provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the nonprovisional application claiming the benefit of the provisional application may be filed on that next succeeding business day.

The drawings are objected to because the individual graphs should be labeled in figures 1 and 8. It is noted that the specification teaches figure 1 has parts a-d. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be

labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: In paragraph [0005], "(?????)" needs either to be deleted or explained. The conjunctions between the elements defining A, B and M is missing. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The process of claims 11 and 18 are not found in the specification. Claims 4-9 teach the coercive field is "about" a value and table 1 and paragraphs 25 and 26 teach the coercive field is an exact value. The specification fails to provide antecedent basis for "about". The claimed saturation magnetizations of claims 4-9 are not taught in the specification. The specification teaches residual magnetization. Finally, the specification does not teach the claimed elements of Y, Gd, Ta, W, Nb, Al, Bi, Cr and V.

Claims 1-18 are objected to because of the following informalities: The formulas of claims 1, 4-9, 12, 15, and 16 should be rewritten using subscripts. In claims 1, 2, 10-13, 17 and 18, there is no conjunctions in the claimed lists of elements. In claims 3 and 14, "material" should not be capitalized. In the last line of claims 1 and 12, "and" should not be capitalized. In claims 10 and 17, "s single phase" should be "a single phase" and "sigle" should be "single". In claims 10, 11, 17 and 18, "of" is missing after the phrase "metal oxides". Finally, it is suggested to rewrite step 1 of claims 10 and 17 so it is clear the process is selecting metal oxides in

amounts to provide the desired stoichiometry of the final perovskite oxide. Appropriate correction is required.

Claims 10, 11, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for producing ferromagnetic perovskite oxides having the formulas $(A_{1-x}M_x)BO_3$ and $A(B_{1-x}M_x)O_3$, where $0 < x < 0.15$ does not reasonably provide enablement for any ferromagnetic perovskite oxide containing the listed metals. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

The claims recite processes for making ferromagnetic perovskite oxides. This encompasses any ferromagnetic perovskite containing the metals, such as $Pb(Fe_{2/3}Nb_{1/3})_xTi_yZr_zO3$, where $x+y+z=1$. However, the specification only teaches the producing oxides having the formulas $(A_{1-x}M_x)BO_3$ and $A(B_{1-x}M_x)O_3$, where $0 < x < 0.15$. Such a limited disclosure does not support the breadth of the instant claims. The examiner suggests the incorporation of these formulas into the respective claims.

Claims 3-11 and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 17 are duplicate claims. Claims 11 and 18 are duplicate claims. Claims 3, 14 and 15 are improperly depend on claims 1 and 12 respectively. The x range in claims 3 and 14 are broader in scope since they include the end points of 0 and 0.15. If they exclude the end points, then these claims do not further limit claims 1 and 12 respectively, since they are identical to the x value range in the independent claims. The formula in claim 15 is outside that

of claim 12 since claim 12 teaches the maximum amount of Fe is less than 0.15 and claim 15 teaches the amount of Fe is 0.75. Claims 4-9 recite the limitations "said saturation magnetization" and "the coercive fields". There is insufficient antecedent basis for these limitations in the claims or in claim 1. Claims 15 and 16 recite the limitations "said magnetic Curie temperature" and "the coercive fields". There is insufficient antecedent basis for these limitations in the claims or in claim 12. Claims 11 and 18 are indefinite since the composition of the target is unclear. It is unclear if the target is a mixture of the claimed oxides which will form the perovskite or if it is composed of the perovskite.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 12 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,641,940. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed formula in the patent overlaps that claimed in this application.

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

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chemical Abstract citation 134:140214 for the article by P'rvanova et al.

This abstract teaches perovskite oxide materials having the formula (1-x) $BaTiO_3$*x$NiTiO_3$, where x is 0.05, 0.1, 0.15. This formula can be rewritten as $Ba_{1-x}Ni_xTiO_3$. The reference clearly teaches the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic, absent any showing to the contrary.

Claim 1 is rejected under 35 U.S.C. 102(a or b) as being clearly anticipated by Chemical Abstract citation 140:311312 for the article by Srivastava et al.

This reference is applicable either under 35 USC 102(a) or (b) depending on the publication month which the Examiner was unable to determine.

This abstract teaches perovskite oxide materials having the formulas $Sr_{0.9}Fe_{0.1}TiO_3$ and $Pb_{0.9}Fe_{0.1}TiO_3$. The reference clearly teaches the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic, absent any showing to the contrary.

Claim 12 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chemical Abstracts citation 132:312137 for the article by Langhammer et al.

This reference teaches perovskite oxide having the formula $BaTi_{1-x}Mn_xO_3$, where $0 < x \leq 0.05$. The reference clearly teaches the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic, absent any showing to the contrary.

Claims 12-14 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 4-56080.

The abstracts and formulas in the reference teach perovskite oxides having the formula $ATi_{1-x}M_xO_3$, where A is $Ca_{1-y}Sr_{1-y}$, y is 0-1 and when M is Fe or Co, x is $0<x\leq0.05$ and when M is Cr, Mn or Ni, x is $0<x\leq0.03$. Page 442 exemplifies $SrTi_{0.95}Fe_{0.05}O_3$. The reference clearly teaches the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic and that $SrTi_{0.95}Fe_{0.05}O_3$ would inherently have the claimed properties, absent any showing to the contrary.

Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent 6,641,940.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

This patent exemplifies perovskite oxides having the formulas $Ba_{0.6}Sr_{0.4}Ti_{0.9}V_{0.1}O_3$ and $Ba_{0.6}Sr_{0.4}Ti_{0.92}Ta_{0.07}Cr_{0.01}O_3$. The reference clearly teaches the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic, absent any showing to the contrary.

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

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

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,641,940.

There is evidence in this file showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as U.S. patent 6,641,940 at the time this invention was made, or was subject to a joint research agreement at the time this invention was made. However, this patent additionally qualifies as prior art under another subsection of 35 U.S.C. 102, and therefore, is not disqualified as prior art under 35 U.S.C. 103(c).

Applicant may overcome the applied art either by a showing under 37 CFR 1.132 that the invention disclosed therein was derived from the invention of this application, and is therefore, not the invention "by another," or by antedating the applied art under 37 CFR 1.131.

This reference teaches perovskite oxides having the formulas $MTi_{1-x}V_xO_3$, where M is Ba and/or Sr and x is 0.02-0.3. This composition overlaps that claimed. Product claims with numerical ranges which overlap prior art ranges were held to have been obvious under 35 USC 103. *In re Wertheim* 191 USPQ 90 (CCPA 1976); *In re Malagari* 182 USPQ 549 (CCPA 1974);

In re Fields 134 USPQ 242 (CCPA 1962); *In re Nehrenberg* 126 USPQ 383 (CCPA 1960). The reference suggests the claimed composition. The reference overlaps the claimed material. Therefore one of ordinary skill in the art would expect it to be inherently ferromagnetic in the overlapping range, absent any showing to the contrary.

Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/40058.

U.S. patent application publication 2005/0006249 is the English equivalent for WO 03/40058.

This reference teaches producing a perovskite oxide having the formula $(Ln,A)(Ti,Fe)O_3$ where Ln can be La and A is at least one of Ca, Sr and Ba by mixing oxides of Fe, Ti, A and Ln in the desired stoichiometry and firing the mixture at a time and temperature sufficient to form a single phase of the oxide, where the firing atmosphere can be an inactive gas atmosphere (para [0088] and examples). It is notoriously well known that argon gas is an inactive gas that is used as an inactive gas atmosphere. Therefore one of ordinary skill in the art would have found it obvious to use argon as the taught inactive gas atmosphere. The reference suggests the claimed process.

Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,434,742.

This reference teaches forming ferroelectric perovskite oxide thin films by forming a target of the ferroelectric oxide and then depositing a thin film of the ferroelectric oxide by sputtering in an argon atmosphere at 600°C (examples). This reads upon the claimed process.

The taught ferroelectric perovskite oxide can contain lead, tungsten and iron or cobalt or lead niobium and manganese, iron or nickel (claim 9). The reference suggests the claimed process.

Claims 4-9 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

There is no teaching or suggestion in the cited art of record of materials having the claimed formulas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications 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).

cmk
July 1, 2005

C. Melissa Koslow
Primary Examiner
Tech. Center 1700

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In re Application of :
Li, et al. :
Application No. 10/829,590 : DECISION
Filing Date: 21 April, 2004 :
Attorney Docket No.: 034172-017 :

This is a decision on the petition(s) filed on 22 November, 2006, supplemented on 27 August, 2007, reasserting a request for withdrawal of the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 6 July, 2005, with reply due under a non-extendable deadline on or 6 October, 2005;
- the instant application went abandoned after midnight 6 October, 2005;
- the Office mailed a Notice of Abandonment on 13 February, 2005;
- on 4 May, 2006, Petitioner filed the instant petition, further supplemented, requesting that

the Office "set aside the holding of abandonment"[1] and "requests that the application be revived"[2]–which are alternative requests for relief–the former under 37 C.F.R. §1.181 and the latter under 37 C.F.R. §1.137(a) or (b)–and making the argument that Petitioner provided to the Office on 9 November, 2004, Notice of the change of address (under 37 C.F.R. §1.33 and consistent with MPEP §403 and §603) by virtue of the separate paper filed, to wit: the executed oath or declaration, and to this end Petitioner provides, *inter alia*, what are averred to be true copies of the date-stamped ("NOV 09 2004 OIPE") receipt card (see: MPEP §503) and oath/declaration;

- the argument is not correct–the record reflects that the original executed oath/declaration was filed on deposit of the application on 21 April, 2004, though on casual review of the record, Petitioner may have thought that the oath filed in November of 2004 was the first executed oath/declaration in response to a requirement in the 9 July, 2004, Notice of Missing Parts, however, that paper alerted Petitioner to fees and formalities requirements;

- thereafter Petitioner was required to Notice the Office as to the change–not simply submit the papers, and as Petitioner must be aware the information as to the address change was in a customer number tucked away inside the oath/declaration filed on 9 November, 2004, and Petitioner provided no Notice to the Office that a change was being submitted;

- further, as detailed in the earlier decision on this matter, from a technical aspect, the provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), Petitioner waited ten (10) months after abandonment and three (3) months after Notice thereof to seek relief under the regulation–moreover, Petitioner is reminded that to take advantage of the provisions of 37 C.F.R. §1.8 and §1.10 certificates of mailing must appear on the papers submitted or on the transmittal letter/form therefor itemizing those papers;

- therefore, the original petition was dismissed on 24 July, 2006;

- the instant petitions would attempt to overcome these deficiencies, however, to the extent they are successful it is principally through the 27 August, 2007, supplement because the renewed petition does nothing to overcome the deficiencies described above as to the petition under 37 C.F.R. §1.181, and though Petitioner filed a reply in the form of an amendment, paragraph 14 of Petitioner's 22 November, 2006, filing does not satisfy the requirement for the statement of unintentional delay under 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that, the filing of a petition

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[1] At the first page of the petition.

[2] At the third page of the petition.

under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

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[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

Further, the commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal

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[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181[11]) requires that relief be sought within two (2) months of the act complained of.

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[11] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the "showing" or "timeliness" requirements described above.

As to the Allegations
of Unintentional Delay

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

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

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; however, the petition as considered under 37 C.F.R. §1.137(b) is **granted**–and fees not previously charged for the petitions under 37 C.F.R. §1.137(a) and (b) in the decision of 24 July, 2006, are now charged as authorized to by Petitioner (and if required, to Deposit Account 02-4800).

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

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[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.

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SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Yi-Qun Li	: DECISION ON REQUEST FOR
Patent Number	: 7597817	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,590	: 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 **147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Michael D. Goodner et al.	:	
Application No. 10/829,592	:	DECISION ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. P18237	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2006. Accordingly, the date of abandonment of this application is March 14, 2007. The Notice of Abandonment was mailed April 11, 2007.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) P18237

First named inventor: MICHAEL D. GOODNER

Application No.: 10/829,592 Art Unit: 2812

Filed: 4/21/2004 Examiner: ANDRE C. STEVENSON

Title: PHOTOSENSITIVE DIELECTRIC LAYER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of FEE TRANSMITTAL (identify type of reply):
☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1,700.
☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Adjustment Date: 01/29/2008 CKHLOK
04/04/2007 TL0111 00000035-022666 10829529
01 FC:1453 1500.00 CR

04/04/2007 TL0111 00000035 022666 10829529
01 FC:1453 1500.00 DA

02/04/2008 CKHLOK 00000001 022666 10829592
01 FC:1453 1500.00 DA

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PTO/SB/64 (09-06)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Rahul D. Engineer/	APRIL 3, 2007
Signature	Date
Rahul D. Engineer	47,548
Typed or printed name	Registration Number, if applicable
INTEL CORPORATION, 1701 Interval Dr., MS: AN1-PTL1	(512) 732-3919
Address	Telephone Number
Austin, TX 78746	
Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: ISSUE FEE TRANSMITTAL WITH PAYMENT

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

APRIL 3, 2007	Lisa M. Hopkinson
Date	Signature
	Lisa M. Hopkinson
	Typed or printed name of person signing certificate

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PTO/SB/17 (02-07)
Approved for use through 02/28/2007. 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 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2007

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) $1,500.00

Complete If Known	
Application Number	10/829,592
Filing Date	4/21/2004
First Named Inventor	MICHAEL D. GOODNER
Examiner Name	ANDRE C. STEVENSON
Art Unit	2812
Attorney Docket No.	P18237

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: BLAKELY, SOKOLOFF...

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below ☐ Charge 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

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
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 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims _____ - 20 or HP = _____ x _____ (Fee ($)) = _____ (Fee Paid ($))

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims _____ - 3 or HP = _____ x _____ (Fee ($)) = _____ (Fee Paid ($))

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 (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 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 _____ - 100 = _____ Extra Sheets / 50 = _____ Number of each additional 50 or fraction thereof (round up to a whole number) x _____ (Fee ($)) = _____ (Fee Paid ($))

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Fee Code 1453- 37 CFR 1.17(m) - Petition to revive unintentional	$1,500

SUBMITTED BY

Signature	/Rahul D. Engineer/	Registration No. (Attorney/Agent) 47,548	Telephone 512-732-3919
Name (Print/Type)	RAHUL D. ENGINEER		Date APRIL 3, 2007

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Kuldipsingh A. Pabla	: DECISION ON REQUEST FOR
Patent Number	: 7571227	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1470** 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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THE OLLILA LAW GROUP LLC
2060 BROADWAY
SUITE 300
BOULDER CO 80302

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MAY 10 2007

OFFICE OF PETITIONS

Patent No. 7,053,813 :
Issued: May 30, 2006 :
Application No. 10/829,602 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 36032/107 :

This is a decision on the petition, filed, March 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the second assignee's name is Colorado State University and it was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to add the second assignee by way of a certificate of correction.

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

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

---

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Colorado State University is the second assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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.: 10/829,618	: SUSPENSION OF ACTION
Filed: April 20, 2004	:
Attorney Docket No.: 04274661	:

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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DEC 0 1 2004

LEXANI.032C2 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Frank J. Hodges, et al.
Appl. No.	:	10/829,631
Filed	:	22 April 2004
For	:	TIRE WITH EXTENDED FLANGE SEAT
Examiner	:	A. C. Johnstone
Group Art Unit	:	1733

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

December 1, 2004
(Date)

Paul N. Conover, Reg. No. 44,087

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 AND M.P.E.P. § 708.02(VIII)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Pursuant to 37 C.F.R. § 1.102 and M.P.E.P. § 708.02(VIII), Applicants hereby petition to make the present Application special in order to advance its examination in the Patent and Trademark Office. A check for payment of the fee of $130 under 37 C.F.R. § 1.17(i) is enclosed. Please charge any additional fees or credit any overpayment to Deposit Account No. 11-1410.

The claims of the Application are believed to be directed to a single invention. However, if a restriction requirement is deemed necessary, Applicants respectfully request that prompt telephone notice be given to Applicants' undersigned counsel, at which time Applicants will make an election without traverse. A pre-examination search was conducted in the following classes and subclasses: 152/151, 345.1, 375, 378R, 378W, 379.4, 379.5, 380, 381.3, 381.4, 382, 394, 397.5, 411, 454, 456, 523, 544, DIG. 6, DIG. 7, DIG. 9, DIG. 12, DIG. 15, DIG. 17, DIG. 18, DIG. 20; 301/8, 5.1, 5.23, 35.1, 36.3, 37.1, 37.22, 37.23, 37.27, 37.28, 37.33, 37.36, 37.43, 39.1, 40.3, 40.5, 40.6, 52, 63.1, 65, 67, 95, 96, 97; D12/134, 135, 204, 205, 206, 207, 208, 210, 213; and D21/563. Applicants submit with this Petition a copy of each reference deemed most closely related to the subject matter encompassed by the claims.

PAGE 2/25 * RCVD AT 12/1/2004 3:33:40 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:9497609502 * DURATION (mm-ss):08-24

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MICHAEL BEST & FRIEDRICH
401 NORTH MICHIGAN AVENUE
SUITE 1900
CHICAGO IL 60611-4212

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Gabriel Petta et al :
Application No. 10/829,645 : DECISION ON PETITION
Filed: April 22, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 200195-9001-00 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/281,199, filed October 28, 2002.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt mailed on October 18, 2004 includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center Art Unit 3635 for appropriate action on the amendment embodied in the petition filed September 13, 2004, (see 37 CFR 1.4(c)), including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 10/281,199, filed October 28, 2002.

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
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MICHAEL BEST & FRIEDRICH
401 NORTH MICHIGAN AVENUE
SUITE 1900
CHICAGO, IL 60611-4212

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Gabriel Petta et al	:	
Application No. 10/829,645	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 200195-9001-00	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 1, 2004.

The petition is dismissed.

Rule 47 applicant is given ONE MONTH 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).

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 (2) set forth above.

As to item (2), the added page to the Declaration submitted on October 1, 2004, does not comply with 37 CFR 1.63. The declaration fails to set forth the nonsigning inventor's citizenship. Accordingly, an ADS or declaration in compliance with 37 CFR 1.63 signed by the signing inventor on behalf of himself and the non-signing inventor's is required. See MPEP 409.03(a).

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

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

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

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

Telephone inquiries related to this decision should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy for

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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401 NORTH MICHIGAN AVENUE
SUITE 1900
CHICAGO, IL 60611-4212

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Gabriel Petta et al :
Application No. 10/829,645 : DECISION GRANTING STATUS
Filed: April 22, 2004 : UNDER 37 CFR 1.47(A)
For: CASEMENT WINDOW SYSTEM AND :
COMPONENTS AN HARDWARE THEREFOR :

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 17, 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.

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.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Karen Creasy at (571) 272-3208.

This matter is being referred to the Technology Center AU 3634 for Examination in due course.

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

JUN 30 2004

ROBERT C. KAIN, JR.
750 SOUTHEAST THIRD AVENUE
SUITE 100
FT LAUDERDALE FL 33316-1153

In re Application of	:
Lawrence M. Marks et al	:
Serial No.: 10/829,650	: PETITION TO MAKE SPECIAL
Filed: April 22, 2004	:
Attorney Docket No.: 2014-02	:

This is in response to applicants' petition filed April 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number 703-872-9306.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Xiang-Yang Han et al. :
Application No. 10/829,661 : DECISION ON PETITION
Filed: April 22, 2004 : UNDER 37 C.F.R. §1.10(C)
Attorney Docket No. UTSC:865US :
Title: DIAGNOSIS OF MOULD :
INFECTION :

This is a decision on the petition under 37 C.F.R. §1.10(c), submitted on September 21, 2004, requesting that the application be accorded a filing date of April 22, 2004.

Shortly after April 22, 2004, the above-identified application was received in the Office. The Office of Initial Patent Examination mailed Petitioner's filing receipt, which might have indicated that the application had been accorded a filing date other than April 22, 2004.

In response, on September 21, 2004, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EV414833932US. Applicants request that the application be accorded a filing date of April 22, 2004.

According to Office records, the above-identified application has been accorded a filing date of April 22, 2004. Either Petitioner misread the original filing receipt, or the same contained an erroneous filing date. A replacement filing receipt has been

included with this decision which contains a filing date of April 22, 2004.

As such, this petition is **DISMISSED-AS-MOOT.**

Petitioner's Deposit Account has not been charged.

The application file is being returned to the Office of Initial Patent Examination for further processing.

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

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

Encl. Replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of
Douglas C. Burger et al.
Application No. 10/829,668
Filed: April 22, 2004
Attorney Docket No. 888.003US1

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 July 31, 2007.

The request is **APPROVED**.

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

The request was signed by Mark V. Muller 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. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address as indicated in the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 25 2005

MAILED

MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

Edward J. Kelly
ROPES & GRAY LLP
One International Place
Boston, MA 02110-2624

In re application of : **DECISION ON PETITION**
Richard F. Gladney : **TO MAKE SPECIAL**
Application No. 10/829,669 : **(ACCELERATED**
Filed: April 21, 2004 : **EXAMINATION)**
For: PLASTIC MATTRESS FOUNDATION HAVING A SCULPTED EXTERIOR SURFACE

This is in response to the petition filed on November 08, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirement (B) above. Regarding item (B), the petition fails include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 03/15/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-145
www.uspto.go

MAY 25 2005

EDWARD J. KELLY
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re application of : **DECISION ON PETITION**
Richard F. Gladney : **TO MAKE SPECIAL**
Application No. 10/829,669 : **(ACCELERATED**
Filed: April 21, 2004 : **EXAMINATION)**
For: PLASTIC MATTRESS FOUNDATION HAVING:
A SCULPTURED EXTERIOR SURFACE :

This is in response to the renewed petition filed on April 22, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

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

KJD/dew: 05/09/05

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SPRYIP, LLC
IFX
5009 163RD PL SE
BELLEVUE, WA 98006

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JAN 20 2010

In re Application of
Ted Johansson
Application No. 10/829,694
Filed: April 22, 2004
Attorney Docket No. 068758.0197

ON PETITION

This is a decision on the petition filed November 16, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed May 19, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 20, 2009.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/829,694	04/22/2004	Ted Johansson	068758.0197

CONFIRMATION NO. 1601

POWER OF ATTORNEY NOTICE

58174
BAKER BOTTS, L.L.P.
98 SAN JACINTO BLVD.
SUITE 1500
AUSTIN, TX 78701-4039

OC000000039624364

Date Mailed: 01/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

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

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/829,694	04/22/2004	Ted Johansson	068758.0197

CONFIRMATION NO. 1601

POA ACCEPTANCE LETTER

67998
SpryIP, LLC
IFX
5009 163rd PL SE
Bellevue, WA 98006

OC000000039624455

Date Mailed: 01/19/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

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

/idingle/

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

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OCT 15 2004

In re Application of :
Brent D. Zollinger *et al* :
Application No. 10/829,699 : DECISION ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. H0006970 :

This is a decision on the petition to make special filed on April 21, 2004. The petition is based upon the practice described in MPEP § 708.02(V) "Environmental Quality" and MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is granted.

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

The Supervisory Patent Examiner of Patent Examining Art Unit 3748 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

EPHRAIM STARR
GENERAL COUNSEL, HONEYWELL INTERNATIONAL, INC.
23326 HAWTHORNE BLVD. #200
TORRANCE, CA 90505

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United States Patent and Trademark Office
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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE, MA 02138

MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshio Irie, et al.	:	
Application No. 10/829,706	:	DECISION GRANTING PETITION
Filed: April 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60004-098001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 12, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 24, 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 05 2006

OFFICE OF PETITIONS

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of :
Bernhard GOTZ et al. : DECISION ON PETITIONS
Application No. 10/829,753 : UNDER 37 CFR 1.183 AND
Filed: April 22, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16127WOUS :

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.

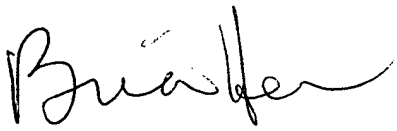
All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

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 2875 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/829,753	04/22/2004	2875	900	2001P16127WOUS	3	20	2

CONFIRMATION NO. 7563

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000019111012

Date Mailed: 06/05/2006

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)

Bernhard Gotz, Zaisenhausen, GERMANY;
Walter Gramlich, Bruchsal, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/11590 10/16/2002

Foreign Applications

GERMANY DE 102 04 612.3 02/05/2002
GERMANY DE 101 52 730.6 10/25/2001

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 US10/829,753

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Lighting device for baking oven

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

RECEIVED

DEC 19 2008

OFFICE OF PETITIONS

In re Application of
Ulrich **BONNE**
Application No. 10/829,763
Filed: April 21, 2004
Attorney Docket No.**H0006099**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2) &
UNDER 37 CFR 1.78(a)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The petition under 37 CFR 1.78(a) is being referred to appropriate petitions examiner for processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2123 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HONEYWELL
INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN NJ 07962-2245

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Application of	:	
Ulrich Bonne	:	
Application No. 10/829,763	:	DECISION DISMISSING PETITIONS
Filed: April 21, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. H0006099	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 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.

The petition does not comply with item (1).

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

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.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 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 the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MINNESOTA 55403-2420

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN NJ 07962-2245

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JAN 08 2009

In re Application of
Ulrich Bonne
Application No. 10/829,763
Filed: April 21, 2004
Attorney Docket No. H0006099

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 7, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

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

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

Any questions concerning this matter may be directed to 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 2856 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/829,763	04/21/2004	2856	1718	H0006099	43	4

CONFIRMATION NO. 7579

CORRECTED FILING RECEIPT

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 01/08/2009

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)

Ulrich Bonne, Hopins, MN;

Power of Attorney:

John Shudy Jr--31214	Matthew Luxton--41960
David Crompton--36772	Gregory Ansems--42264
Glenn Seager--36926	Kris Fredrick--42554
Brian Tufte--38638	James Rodgers--48306
James Wickhem--41376	Mark Schroeder--53566

Domestic Priority data as claimed by applicant

This application is a CIP of 10/672,483 09/26/2003 PAT 7,367,216
which claims benefit of 60/500,821 09/04/2003
and claims benefit of 60/440,108 01/15/2003
and claims benefit of 60/414,211 09/27/2002
This application 10/829,763
is a CIP of 10/749,863 12/31/2003
which claims benefit of 60/440,108 01/15/2003
and claims benefit of 60/500,821 09/04/2003
and is a CIP of 10/672,483 09/26/2003 PAT 7,367,216
which claims benefit of 60/414,211 09/27/2002
and said 10/749,863 12/31/2003
is a CIP of 10/671,930 09/26/2003
This application 10/829,763
is a CIP of 10/671,930 09/26/2003
which claims benefit of 60/500,821 09/04/2003
and claims benefit of 60/440,108 01/15/2003

and claims benefit of 60/414,211 09/27/2002

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 **US 10/829,763**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PHASED MICRO ANALYZER VIII

Preliminary Class

073

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific

countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TODD W. GALINSKI
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Michael Kim, et al. :
Application No. 10/829,771 : DECISION ON PETITION
Filed: April 22, 2004 : TO WITHDRAW
Attorney Docket No. GGB 7020 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2007.

The request is **NOT APPROVED**.

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, "withdrawal of counsel at the request of assignee", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BRIAN KINNEAR
HOLLAND & HART, LLP
555 – 17TH STREET
SUITE 2700
DENVER, CO 80202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 07, 2007

TO SPE OF : ART UNIT 1645 10/829775

SUBJECT : Request for Certificate of Correction on Patent No.: 7160549 B2

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

JEFFREY SIEW
SUPERVISORY PATENT EXAMINER
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None
SEP 0 3 2004

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Paul Kenner :
Application No. 10/829,794 :
Filed: July 21, 2004 : DECISION ON PETITION
Attorney Docket No. :
60121.0001US01 :
Title: APPARATUS AND METHOD FOR :
DIRECTING AN ENTRY INTO AN :
AIRCRAFT HOLDING PATTERN :

BACKGROUND

This is a decision on the petition filed July 21, 2004, in which Petitioner requests a later filing date for the above-identified application.

On April 22, 2004, the above-identified application was deposited. On June 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 6 and 7 appeared to have been omitted. The Notice set a two-month period for response.

On July 21, 2004, Petitioner submitted a response, along with Figures 6 and 7, as well as payment of the petition fee. Petitioner sets forth that these figures were omitted on filing, and has requested a filing date of July 19, 2004, the date contained on the certificate of mailing located on the first page of the petition.

ANALYSIS

37 C.F.R. §1.8, Certificate of mailing or transmission, sets forth, in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.
(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:
(i) Relative to Patents and Patent Applications –
(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d)

(emphasis added)

Petitioner cannot rely on certificate of mailing practice to establish a filing date. The file will receive a filing date of July 21, 2004, as that is the date on which the papers were actually received.

CONCLUSION

As such, the petition must be **DISMISSED.**

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of July 21, 2004**, the date of receipt of the formerly omitted item, Figures 6 and 7, using the original application papers filed April 22, 2004, and the figures submitted with the instant petition on July 21, 2004. **OIPE will then mail a corrected filing receipt.**

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will

relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Hongche Liu et al	:	
Application No. 10/829,814	:	DECISION ON PETITION
Filed: April 21, 2004	:	TO WITHDRAW
Attorney Docket No. 017887-013110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 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 2168.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE
YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/829,814	04/21/2004	Hongche Liu	12729-63

CONFIRMATION NO. 8167

OC000000018913606

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

Date Mailed: 05/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

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

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

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	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/829,814	04/21/2004	Hongche Liu	12729-63

CONFIRMATION NO. 8167

OC000000018913642

56020
BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 05/23/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

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

Wan Laymon

WAN LAYMON
OP (571) 272-3220

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ANTHONY J. JANIUK
WATERS CORPORATION
34 MAPLE STREET
MILFORD MA 01757

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of
Rong Xie et al
Application No. 10/829,848
Filed: April 22, 2004
Attorney Docket No. AE-279

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed September 10, 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.

The petition is **GRANTED.**

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

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

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

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

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on September 10, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 referred to Technology Center Art Unit 1631 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

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

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
10/829,848	04/22/2004	1631	986	AE-279	13	4

CONFIRMATION NO. 7350

CORRECTED FILING RECEIPT

Anthony J. Janiuk
Waters Corporation
34 Maple Street
Milford, MA 01757

Date Mailed: 06/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Rong Xie, Hudson, MA;
Yefim Brun, Wilmington, DE;
Marc C. Gorenstein, Needham, MA;

Assignment For Published Patent Application

WATERS INVESTMENTS LIMITED, Milford, MA

Power of Attorney:
Anthony Janiuk--29809

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/33945 10/23/2002
which claims benefit of 60/335,254 10/23/2001

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 10/829,848**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for determining radius of gyration, molecular weight, and intrinsic viscosity of a polymeric distribution using gel permeation chromatography and light scattering detection

Preliminary Class

703

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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Karl M. Steins
Steins & Associates
Suite 120
2333 Camino del Rio South
San Diego CA 92108

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
Lars Karlsson :
Application No. 10/829,858 : DECISION ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. ADV8-H85 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before May 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2007. A Notice of Abandonment was mailed on May 30, 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 Notice of February 2, 2007 required the submission of the issue fee in the amount of $700 and the publication fee in the amount of $300. While the $700 issue fee has been received, the $300 publication fee did not accompany the petition. Accordingly, before this application can be revived, petitioner must submit the $300 publication fee (along with a renewed petition under 37 CFR 1.137(b) (no additional petition fee required).

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

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

STEINS & ASSOCIATES

MISSION VALLEY:
2333 Camino del Rio South
Suite 120
San Diego, CA 92108
(619) 692-2004
(619) 692-2003 (fax)

ORANGE COUNTY:
23046 Avenida de la Carlota
Suite 600
Laguna Hills, CA 92653
(714) 549-1198
(714) 549-1197 (fax)

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FAX COVER PAGE

To: PETITIONS BRANCH (+) EXAM UE, GAU 2618

From: Karl M. Steins
Attorney at Law

Fax Number: (571) 273-8300

Fax Number (619) 692-2003 / (714) 549-1197

Date/Time: 9/28/07 1315

Subject: 10/829,858

PLEASE SEE ATTACHED:

- ☑ CERTIFICATE OF FACSIMILE
- ☐ AMENDMENT/RESPONSE
- ☑ FEE PAYMENT $ 300
- ☑ OTHER: COPY OF PETITION DECISION
- ☐ OTHER: _____
- ☐ OTHER: _____

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5 **Pages including this cover sheet.**

The information contained in this fax message is PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the individual or entity named above. If the reader of this fax message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that you are in possession of CONFIDENTIAL AND PRIVILEGED INFORMATION. Any dissemination, distribution or copying of this communication is STRICTLY PROHIBITED. You are further requested to return the original fax message to the sender at the address above. Your cooperation is appreciated.

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In the United States Patent and Trademark Office

Applicant(s): Networkfab Corporation

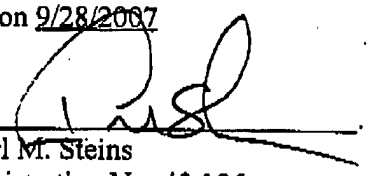
Title: "Method and Apparatus for the Intelligent and Automatic Gathering of Sudden Short Duration Communications Signals"

Serial No.: 10/829,858 Docket No. ADV8-H85

Certificate of Transmission - 37 CFR 1.8

I hereby certify that this correspondence entitled "Fee Payment" is being facsimile transmitted to the Patent and Trademark Office, on 9/28/2007

9/28/07
Date



Karl M. Steins
Registration No. 40,186
Steins & Associates
2333 Camino del Rio South, Suite 120
San Diego, CA 92108
(619) 692-2004

PAGE 2/5 * RCVD AT 9/28/2007 4:22:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/16 * DNIS:2738300 * CSID:6196922003 * DURATION (mm-ss):01-56

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Steins & Associates
Suite 120
2333 Camino del Rio South
San Diego CA 92108

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OFFICE OF PETITIONS

In re Application of
Lars Karlsson
Application No. 10/829,858
Filed: April 21, 2004
Attorney Docket No. ADV8-H85

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2007, to revive the above-identified application.

The petition is **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.

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10/01/2007 CCHAU1 00000034 10829858 300.00 OP
01 FC:1504

The Notice of February 2, 2007 required the submission of the issue fee in the amount of $700 and the publication fee in the amount of $300. While the $700 issue fee has been received, the $300 publication fee did not accompany the petition. Accordingly, before this application can be revived, petitioner must submit the $300 publication fee (along with a renewed petition under 37 CFR 1.137(b) (no additional petition fee required).

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401 Dulany Street
Alexandria, VA 22314

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

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Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

Applicant	: Andreas Wolber	: DECISION ON REQUEST FOR
Patent Number	: 7664818	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/829,868	: 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 **1213** 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 : July 10, 2009

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/829873/7199144
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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

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: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/20/2010

Applicant	: Andreas Wolber	: DECISION ON REQUEST FOR
Patent Number	: 7634550	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/829,875	: 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 **1609** 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

In re Patent No. 7,316,060
Issue Date: September 12, 2006
Appl No.: 10/829,895
Filed: April 21, 2004
For: KLEDZIK, KENNETH J.

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed on 4/10/08 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.

Peter Vo
Supervisory Patent Examiner
Art Unit 3729
Technology Center 3700

Dewey & LeBoeuf LLP
1101 New York Avenue, NW
Washington, DC 20005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-27-08

Paper No.: _____

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction on Patent No.: 7316060 (10/829895

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

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

Eva James

Inventorship (Should it be Granted?

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

3729

SPE **Art Unit**

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. : 7,316,060

APPLICATION NO.: 10/829,095

ISSUE DATE : September 12, 2006

INVENTOR(S) : Kenneth J. KLEDZIK

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:

Item 75, "Kenneth J. Kledzik, San Clemente, CA (US)" should read --Kenneth J. Kledzik; Jason C. Engle, both of San Clemente, CA (US)--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Dewey & LeBoeuf LLP
975 F Street, NW
Washington, DC 20004-1405

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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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Kenneth C. Cundy, et al. :
Application No. 10/829,896 :
Filed: April 21, 2004 :
Attorney Docket No. XENO-001/08US :

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant	: John Lewis Hufferd	: DECISION ON REQUEST FOR
Patent Number	: 7577707	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,914	: 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 **1204** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant	: John Lewis Hufferd	: DECISION ON REQUEST FOR
Patent Number	: 7577707	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,914	: 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 **1204** 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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Robert D. Buyan, Stout, Uxa, Buyan & Mullins,
LLP/Acclarent, Inc.
4 Venture
Suite 300
Irvine, CA 92618

Mail Date: 07/23/2010

Applicant	: Joshua Makower	: DECISION ON REQUEST FOR
Patent Number	: 7654997	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/829,917	: 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 **1264** 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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Hon et al.	:	
Application No. 10/829,934	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. MR3315-142	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 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 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 2800 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Shiho et al. :
Application No. 10/829,936 : DECISION ON PETITION
Filed: 04-23-2004 :
Attorney Docket No. 252293US0 :

This is a decision on the petition under 37 CFR 1.181, filed April 9, 2007, to withdraw the holding of abandonment for the above-identified application.

On February 14, 2007, the Board of Patent Appeals and Interferences rendered a decision affirming the examiner. On February 26, 2007, the Office notified applicants that the application was abandoned. Specifically, the Office mailed a Notice of Abandonment, stating that the application became abandoned because the period for seeking court review of the Board's decision of February 14, 2007, had expired and there were no allowed claims.

On April 9, 2007, applicants filed the present petition, a request for continued examination, and a submission. In the present petition, applicants asserted that the application was not abandoned and requested that the Office withdraw the holding of abandonment. Applicants stated that a single request for rehearing, in accordance with 37 CFR 41.52, was due on April 14, 2007. Applicants asserted that absent the filing of an express abandonment, the present application should have remained pending until April 14, 2007.

The Office finds applicants' assertions are correct. Pursuant to 37 CFR 1.304, "The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences." "If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request." Id. Therefore, applicants could filed a reply on or before April 14, 2007, to avoid abandonment. See 37 CFR 1.97. Accordingly, the reply in the form of an RCE and submission filed on April 9, 2007, was timely.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn.

This matter is being referred to the Technology Center Art Unit 1711 for processing the RCE and submission filed on April 9, 2007.

Telephone inquiries concerning this matter 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 Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,954	04/23/2004	Hiroyuki Fujinuma	252400US0	7496

22850 7590 04/16/2010

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

EXAMINER	
VENKAT, JYOTHSNA A	

ART UNIT	PAPER NUMBER
1619	

NOTIFICATION DATE	DELIVERY MODE
04/16/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

Applicant: Fujinuma et al.
Appl. No.: 10/829,954
Filing Date: April 23, 2004
Title: HAIR COSMETIC PRODUCT
Attorney Docket No.: 252400US0
Pub. No.: US 2004/0213752 A1
Pub. Date: October 28, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on April 8, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests 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

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 04/19/2010 KKING1
04/09/2010 INTEFSW 00001588 10829954
02 FC:1504 -300.00 OP

Refund Ref:
04/19/2010 0030082564

Credit Card Refund Total: $300.00

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KENYON AND KENYON
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Hiromichi Nakata et al :
Application No. 10/829,984 : DECISION DISMISSING PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.313(a)
Attorney Docket No. 10517/233 :

This is a decision on the petition under 37 CFR 1.313(a), filed February 29, 2008, requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on December 28, 2007, with the issue fee being due on or before March 28, 2008. The issue fee in this case has not been paid.

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

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1795 for appropriate processing of the RCE filed February 29, 2008, and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Krishnan Kunjunny Kailas	: DECISION ON REQUEST FOR
Patent Number	: 7665070	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/829,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 05/17/2010

Applicant : Krishnan Kunjunny Kailas
Patent Number : 7665070
Issue Date : 02/16/2010
Application No: 10/829,989
Filed : 04/23/2004

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

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

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

The patent term adjustment has been determined to be **1498** 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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FLESHNER & KIM LLP
P O BOX 221200
CHANTILLY, VA 20153

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OFFICE OF PETITIONS

In re Application of :
Byung Jun Mun et al :
Application No. 10/830,015 : DECISION GRANTING PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YHK-0134 :

This is a decision on the petition, filed March 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 8, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1756 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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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 04/20/2010

Applicant	: Winston Ki-Cheong Mok	: DECISION ON REQUEST FOR
Patent Number	: 7668210	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,031	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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SEP 06 2006

OFFICE OF PETITIONS

In re Application of :
Gadde, et al. :
Application No. 10/830,071 :
Filed: April 23, 2004 :
Attorney Docket No. 1579-904 :

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 May 23, 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 Mary J. Wilson on behalf of all attorneys of record who are associated with customer No. 23117.

All attorneys/agents associated with the Customer Number 23117 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 Kishore M. Gadde at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 18, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Kishore M. Gadde
c/o Duke University, Office of Science and Technology
PO Box 90083
Durham, NC 27708

cc: Mr. Ned Isrealsen
Knobbe Martens Olsen & Bear, LLP
550 West C Street
Suite 1200
San Diego, Ca 92101

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
10/830,071	04/23/2004	Kishore M. Gadde	1579-904

CONFIRMATION NO. 7687

OC000000020277130

OC000000020277130

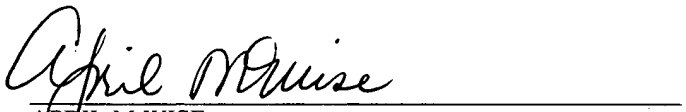
23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 09/01/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2006.

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



APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Craig Jordan	: DECISION ON REQUEST FOR
Patent Number	: 7651678	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **148** 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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JJGJr: 08-06

Paper No: ___

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

COPY MAILED

SEP 18 2006

OFFICE OF PETITIONS

In re Application of:
Tsukagoshi
Patent No.: 7,031,423
Issue Date: 18 April, 2006
Application No. 10/830,106
Filed: 23 April, 2004
Attorney Docket No.: 252190USX

ON PETITION

This is a decision on the request filed on 8 June, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

---

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

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.
Senior Attorney
Office of Petitions

[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-14-07 **Paper No.:** _____

TO SPE OF : **Technology Center** 2817 10/830112

SUBJECT : Request for Certificate of Correction on Patent No.: 7242267 B2

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

OK for Entry. SJ.

_____ 2817

SPE **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: 7,242,267 B2

DATED: July 10, 2007

INVENTORS: Westra *et al.*

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

Approved for Entry SS 11/9/07

Column 8

At line 9, please replace "for selection line" with --for selecting fine--.
At line 11, please replace "for selection line" with --for selecting fine--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

1100 New York Avenue, NW
Washington DC 20005-3934
Atty. Dkt. No. 1875.4860001

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 are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: 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 (1-800-786-9199) and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUL 20 2005

HUNTON & WILLIAMS
SUITE 1200
1900 K STREET, N.W.
WASHINGTON, DC 20006-1109

In re application of	:	**DECISION ON PETITION**
Loren Eckart et al.	:	**TO MAKE SPECIAL**
Application No. 10/830,115	:	**(INFRINGEMENT)**
Filed: April 23, 2004	:	
For: AUTOMATED MANAGEMENT OF BUSINESS PERFORMANCE INFORMATION		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 09, 2005 to make the above-identified application special.

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

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

The petition filed June 09, 2005 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 June 09, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application

simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

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

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

KJD/slb: 06/23/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA, VA 22182-6212

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,441,440 :
Issue Date: October 28, 2008 :
Application No. 10/830,133 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 58620.00010 :

This is a decision on the petition filed January 12, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
Patrick French et al	:	
Application No. 10/830,166	:	ON PETITION
Filed: April 21, 2004	:	
Attorney Docket No. 2060-96	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2006, requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance was mailed on February 13, 2006, with the issue fee being due on or before May 15, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of February 13, 2005 has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2855 for appropriate processing of the RCE filed April 24, 2006 and consideration of the IDS submitted concurrently therewith.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Copied from 10830616 on 05/09/2006

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

QUALCOMM INCORPORATED
Patent Dept.
5775 Morehouse Drive
San Diego, CA 92124-1714

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of
LANE, Ryan *et al*
Application No.: 10/830,188
Filing Date: April 21, 2005
Docket No.: 020378D1
For: METHOD FOR ACCOMMODATING SMALL MINIMUM DIE IN BONDED AREA ARRAY PACKAGES

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on May 4, 2005. The petition is **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).

Applicants submitted amended claims and the requisite petition fee. Applicants' statement in the petition has been interpreted 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 under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this interpretation is incorrect, applicants should notify the office. A terminal disclaimer is not required. Accordingly, all requirements under 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 credited to Deposit Account No. 17-0026.

This application is being referred to Technology Center AU 2822 for continued processing.

James Thomson
Attorney Advisor
PCT Legal Administration

Tel: 571-272-3292

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 20 2007

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

In re Application of :
Ryan Lane, et :
Application No. 10/830,188 : ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. 020378D1 :

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

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 3, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned after midnight July 3, 2006. See MPEP 1215.04.

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

This application file is being referred to Technology Center Art Unit 2822, 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
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Alexandria, VA 22313-1450
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JAIME CARRILLO
9439 THATCHER HALL COURT
CHARLOTTE, NC 28277-2084

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of :
Jaime Ramiro Carrillo :
Application No. 10/830,194 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. :

This is in response to the communication, filed August 28, 2006, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

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

On December 12, 2005, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on March 13, 2006, for failure to submit a timely response to the December 12, 2005 Office action. On July 25, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment. Specifically, petitioner states "for the reason my reply on 1 March 2006 was lost after it was received on 2 March 2006 by the United States Patent and Trademark Office."

The Express Mail label and the U. S. Postal Service (USPS) receipt dated March 1, 2006 does not show evidence that the response to the December 12, 2005 Office action was enclosed. It is important that the petitioner provide a return postcard which itemize all of the components of the response. If the postcard does not itemize each of the components, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

MPEP 503 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

ALTERNATIVE VENUE

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

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAIME CARRILLO
9439 THATCHER HALL COURT
CHARLOTTE, NC 28277-2084

COPY MAILED

APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Jaime Ramiro Carrillo :
Application No. 10/830,194 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. :

This is in response to the Renewed Petition to Withdraw the Holding of Abandonment, filed July 19, 2007.

The petition is **DISMISSED**.

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

The Express Mail label received August 28, 2006 does not show the itemize components. Therefore, it is unclear as to what was sent to the USPTO on March 1, 2006. Petitioner must provide a copy of the return postcard with the USPTO's itemize components received date stamp. If petitioner can not provide a copy of the return postcard, petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$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 was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $770.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:00 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOSER PATTERSON & SHERIDAN LLP
APPLIED MATERIALS, INC.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of :
Zhenjiang Cui et al :
Application No. 10/830,203 : DECISION GRANTING PETITION
Filed: April 21, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
AMAT/8856/DSM/LOW/K/JW

This is a decision on the petition, filed May 5, 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 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 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).*

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

PTO/SB/130 (08-06)
Approved for use through 06/30/2009. 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

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	10/830,222	Confirmation Number		Filing Date	2004-04-23
Attorney Docket Number (optional)		Art Unit		Examiner	
First Named Inventor	Richard A. Russell				
Title of Invention	Tactical Video on Demand System Concept				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

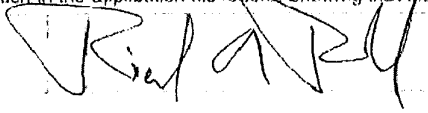
Given Name	Middle Name	Family Name	Suffix
Richard	A.	Russell	

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 format of the signature.

Select (1) or (2) :

(1) I am an inventor in this application and I am 65 years of age, or more.

(2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature		Date (YYYY-MM-DD)	2010-05-17
Name	Richard A. Russell		

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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Richard M. Banks	: DECISION ON REQUEST FOR
Patent Number	: 7657846	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1153** 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

Ross Spencer Garsson
WINSTEAD SECHREST & MINICK PC
P.O. Box 50784
Dallas, TX 75201

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Rodney ROESKO :
Application No. 10/830,243 : DECISION ON PETITION
Filed: April 22, 2004 : TO WITHDRAW
Attorney Docket No. 43763-P001US : 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, 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 R. Spencer Garsson 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Rodney E. Roeske
2752 Gaston Avenue, Apt# 1011
Dallas, TX 75226

cc: Ruben C. DeLeon
AKIN GUMP STRAUSS HAUER & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re application of
Scott R. Iverson et al.
Application No. 10/830,259
Filed: April 22, 2004
For: REAL-TIME MULTIMEDIA FISHING TOURNAMENT WEIGH-IN DATA DISTRIBUTION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 10, 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.

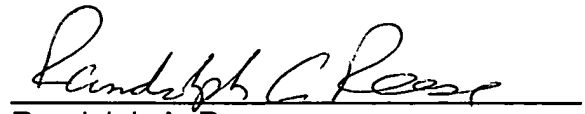
MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method 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 September 10, 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 June 18, 2004.

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

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



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

RAR/rwg: 10/07/04

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DAVID B. RITCHIE
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of :
Christopher J. Diorio, et al. :
Application No. 10/830,280 : ON PETITION
Filed: April 21, 2004 :
Attorney Docket No. IMP-J-0082 :

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

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

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

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Susulic et al
Application No. 10/830,283
Filed: April 21, 2004
For: TRANSCRIPTIONAL REGULATION OF THE HUMAN BETA3-ADRENERGIC RECEPTOR GENE
Attorney Docket No: 00630/100E791-US2
Pub. No.: US 2004/0192607 A1
Pub. Date: September 30, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 29, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, because pages 38-62 of the application as filed are missing from the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The errors are not material mistakes because the application is a Divisional of U.S. Application Nos. 09/761,116 and 09/243,335, both of which are now patented and are incorporated by reference. Since, the parent applications are now patented and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance

[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).

of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

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

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

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

By facsimile: 703-872-9306

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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NEW YORK NY 10150-5257

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MAR 0 6 2006

OFFICE OF PETITIONS

Applicant: Susulic et al.
Appl. No.: 10/830,283
Filing Date: April 21, 2004
Title: TRANSCRIPTIONAL REGULATION OF THE HUMAN BETA3-ADRENERGIC RECEPTOR GENE
Attorney Docket No.: 00630/100E791-US2
Pub. No.: US 2004/0192607 A1
Pub. Date: September 30, 2004

This is a decision on the request for reconsideration of a corrected patent application publication under 37 CFR 1.221(b), received on May 19, 2005, for the above-identified application

The request is DISMISSED.

Applicant's representative requests reconsideration of the decision for a corrected publication was mailed on May 3, 2005, because the patent application publication contains a material error. Applicant's representative asserts that the omission of pages 38-62,[1] which includes the claims from the publication, is a material error. Applicant's representative asserts that the earlier dismissal because the application is a continuation of an earlier filed application, which was incorporated by reference and already published such that one can freely access the parent application is in error because the claims of the instant application are different from the claims in the parent application. Applicant's representative asserts that it is not clear that the provisional rights could be asserted because no claims have been published.

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.[2]

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[1] Pages 38-62 of the application as filed are omitted from the publication, not pages 28-62 as stated in the request.

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

The Office failed to properly publish the application, however, the errors are not material errors under 37 CFR 1.221(b). Applicant's representative asserts that the error is a material error because the Office failed to publish the claim of the instant application and the claims in this application are different from the claims in the parent application. Applicant's representative asserts that since the claims were not published, it is not clear that provisional rights could be enforced. Contrary to Applicant's representative's assertions, claims 1-3 were published in the publication. (Copy enclosed) The errors are not material mistakes because the application is a Divisional of U.S. Application Nos. 09/761,116 and 09/243,335, both of which are now patented and are incorporated by reference. Since, the parent applications are now patented and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See MPEP 608.01(p) and *General Electric Co. v. Brenner*, 407 F.2d 1258, 159 USPQ 335 (D.C. Cir. 1968).

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of 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.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: page 13 of the publication with claims 1-3

What is claimed is:

1. An isolated β_3-AR trans-activating factor polypeptide, wherein said polypeptide has the following characteristics:

(a) it binds specifically to a nucleic acid having the nucleotide sequence GCCTCTGGGGAG (SEQ ID NO: 1);

(b) it is expressed by brown adipose tissue cells;

(c) it is expressed at very low levels by cells isolated from the perirenal depot;

(d) an AP-2 binding nucleic acid does not compete with a nucleic acid comprising a nucleotide sequence GCCTCTGGGGAG (SEQ ID NO: 1) for binding the polypeptide; and,

(e) when complexed to a nucleic acid comprising SEQ ID NO: 1, it is not recognized by an antibody to AP-2.

2. A composition comprising an isolated β_3-AR trans-activating factor polypeptide, wherein said polypeptide has the following characteristics:

(a) it binds specifically to a nucleic acid having the nucleotide sequence GCCTCTGGGGAG (SEQ ID NO: 1);

(b) it is expressed by brown adipose tissue cells;

(c) it is expressed at very low levels by cells isolated from the perirenal depot;

(d) an AP-2 binding nucleic acid does not compete with a nucleic acid comprising a nucleotide sequence GCCTCTGGGGAG (SEQ ID NO: 1) for binding the polypeptide; and,

(e) when complexed to a nucleic acid comprising SEQ ID NO: 1, it is not recognized by an antibody to AP-2.

3. The composition of claim 2 further comprising an isolated nucleic acid having the nucleotide sequence GCCTCTGGGGAG (SEQ ID NO: 1).

* * * * *

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JUL 13 2005

In re Application of	:	
Gregory C. Dua et al.	:	
Serial No. 10/830,286	:	DECISION ON PETITION
Filed: April 22, 2004	:	TO MAKE SPECIAL
For: SILICONE ROLLING PIN	:	

Applicant's petition, filed December 6, 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

Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

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JAN - 5 2005

OFFICE OF THE DIRECTOR
TC 3600

KILPATRICK STOCKTON LLP
607 14th Street NW, Suite 900
Washington, DC 20005

In re application of : **DECISION ON PETITION**
Alan Rifkin : **TO MAKE SPECIAL**
Application No. 10/830,308 : **(ACCELERATED**
Filed: April 23, 2004 : **EXAMINATION)**
For: METHOD AND SYSTEM FOR PROVIDING MANDATORILY CONVERTIBLE SECURITIES WITH ASSOCIATED SENIOR DEBT INSTRUMENTS

This is in response to the petition filed on December 20, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

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

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

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

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

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

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

KJD/jwk: 01/04/05

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Date Mailed : October 16, 2007

Patent No. : 7,211,295
Inventor :Takahashi YUTAKA, et al.
Patent Issued : May 1, 2007
Title : SILICON DIOXIDE FILM FORMING METHOD

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.

As a result of applicants failure to fully comply with 35 U.S.C. 119 in that conditional requirements were not met; the Foreign Priority data was not included in applicants Letters Patent.

Accordingly, approval is not warranted unless a petition is granted. Any petition should be directed to the attention of the Assistant Commissioner for patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box 1450
Alexandria, VA 22313-1450

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

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) 308-9390 or (703) 308-

Smith, Gambrell & Russell, LLP
1850 M Street,
Ste 800
Washington, DC 20036

CBN/arg

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 05/04/2010

Applicant	: Nidham Ben Rached	: DECISION ON REQUEST FOR
Patent Number	: 7616636	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/830,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1600** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
John S. Foong et al	:	
Application No. 10/830,351	:	DECISION GRANTING PETITION
Filed: April 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4964A(CIP)	:	

This is a decision on the petition, filed August 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\830351.wpd

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

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Gustavo A. Dascanio et al :
Application No. 10/830,364 : DECISION ON PETITION
Filed: April 21, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. MEE-108 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 23, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor M. Edmund Ellion stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3761 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Olympic Patent Works PLLC
P.O. Box 4277
Seattle, WA 98194-0277

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SEP 28 2005

OFFICE OF PETITIONS

In re Application of :
Steinmetz, et al. : DECISION ON PETITIONS
Application No. 10/830,419 : UNDER 37 CFR 1.48 and
Filed: April 22, 2004 : 37 CFR 1.183
Atty. Dkt. 35022.001C5 :

This decision is in response to the petitions under 37 CFR 1.183 and 1.48(b), filed September 6, 2005.

DECISION UNDER 37 CFR 1.48(a)

A grantable petition under 37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The instant petition fails to satisfy requirement (3) set forth above in that the declaration included with the instant request under 37 CFR 1.48 fails to identify the entire inventive entity as it fails to identify Matthew Paul Wakely as a joint inventor; nor has the declaration been executed by the legal representative of deceased inventor Matthew Paul Wakely.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 set forth that "[I]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the

Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to submit waive the requirement so of 37 CFR 1.48(a)(3) and submit a declaration executed by less than all of the inventors named in the application.

Petitioners indicate that inventor Matthew Paul Wakely is deceased. Petitioners have failed to establish the existence of an "extraordinary situation" which would warrant the requirement that a declaration executed by all named inventors, including the legal representative on behalf of the deceased inventor, exits.

Any renewed petition should be accompanied by evidence that effort has been made to procure the signature of the legal representative of the deceased inventor without avail; i.e., evidence that establishes that the legal representative is either unavailable or refuses to sign the declaration despite reasonable efforts on behalf of petitioners.

The required petition fee of $400.00 has been charged to petitioners' deposit account as authorized.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the deficiencies noted herein. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 and 1.48," and should only address the deficiencies noted herein, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office

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

The application file is being forwarded to Technology Center 2100 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DEC 22 2005

OFFICE OF PETITIONS

Olympic Patent Works PLLC
P.O. Box 4277
Seattle, WA 98194-0277

In re Application of
Steinmetz, et al.
Application No. 10/830,419
Filed: April 22, 2004
Atty. Dkt. 35022.001C5

: DECISION ON PETITIONS
: UNDER 37 CFR 1.48 and
: 37 CFR 1.183

This decision is in renewed petitions filed November 30, 2005.

DECISION UNDER 37 CFR 1.48(a)

A grantable petition under 37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The instant petition fails to satisfy requirement (5) set forth above. Review of the submissions dated September 6, 2005 and November 30, 2005 do not indicate receipt of the required statement of consent by the assignee for the removal of inventor(s). It is noted that the required statement of consent of the addition of inventor P. Mellquist was submitted September 6, 2005.

As a matter of clarification, it is the understanding of the undersigned that the proposed inventive entity is that of J. Steinmetz and F. Mellquist.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 set forth that "[I]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners previously sought to waive the requirements of 37 CFR 1.48(a)(2), alleging that deceased inventor M.P. Wakeley was unavailable to execute the required statement. The legal representative of the deceased inventor has now executed the required statement.

Accordingly, it is noted for the record that further consideration in this regard pursuant to 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is deemed moot and the petition under 37 CFR 1.183 remains **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the deficiencies noted herein. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.48," and should only address the deficiencies noted herein, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street

Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

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DEC 11 2009

OFFICE OF PETITIONS

In re Patent No. 6,969,014	:	
Issue Date: November 29, 2005	:	
Application No. 10/830,425	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. 5000.M0001US	:	

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BLVD
SUITE 300
MCLEAN VA 22012

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Onishi, et al.	:	
Application No. 10/830,426	:	DECISION DISMISSING
Filed: April 23, 2004	:	PETITION
Attorney Docket No. 577762000100	:	

This is a decision on the "PETITION TO ACCORD FILING DATE", filed August 25, 2004, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of April 23, 2004.

The petition is **DISMISSED**.

Petitioner 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 to Accord Filing Date," and should only address the deficiencies noted below. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The application was deposited on April 23, 2004. However, on July 28, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was deposited without drawings. In addition, the Notice informed applicants that the statutory basic filing fee and the oath or declaration were missing.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a postcard receipt identifying this application, itemizing "9 drawings (9 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 23, 2004, and lacking any notation of non receipt of any item listed.

However, nowhere in the petition does petitioner assert that the copies of the drawings which accompanied the petition are copies of the drawings as originally filed. Rather, petitioner states that the drawings submitted on petition are an "additional set".

The $770 statutory basic filing fee and the $130 surcharge for its late filing have been charged to Deposit Account No. 03-1952, as authorized. In addition, the petition fee of $130 has also been charged to the deposit account.

The Change of Correspondence Address, submitted with the instant petition, has been entered. Future correspondence concerning this application will be mailed to the above address of record.

There is no indication that applicants have submitted an oath or declaration. The time period for submitting the oath or declaration continues to run from the Notice of Incomplete Application, mailed July 28, 2004.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORRISON & FOERSTER LLP
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SUITE 300
MCLEAN VA 22012

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Onishi, et al.	:	
Application No. 10/830,426	:	DECISION GRANTING
Filed: April 23, 2004	:	PETITION
Attorney Docket No. 577762000100	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION TO ACCORD FILING DATE", filed June 6, 2005, to accord the above-identified application a filing date of April 23, 2004.

The petition is **GRANTED**.

The application was deposited on April 23, 2004. However, on July 28, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was deposited without drawings. In addition, the Notice informed applicants that the statutory basic filing fee and the oath or declaration were missing.

On August 25, 2004, petitioner submitted a postcard receipt identifying this application, itemizing "9 drawings (9 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 23, 2004, and lacking any notation of non receipt of any item listed. However, nowhere in the petition did petitioner assert that the copies of the drawings which accompanied the petition are copies of the drawings as originally filed. Rather, petitioner stated that the drawings submitted on petition are an "additional set". Accordingly, the petition was dismissed in a decision mailed on April 4, 2005.

With the instant request for reconsideration, petitioner has stated on the record that the drawings supplied with the petition are a copy of the drawings as originally filed.

There is no indication that applicants have submitted an oath or declaration. The time period for submitting the oath or declaration was set in the Notice of Incomplete Application, mailed July 28, 2004.

The application file is being forwarded to the Office of Initial Patent Examination for further processing as an **abandoned application** with a filing date of April 23, 2004, using the application papers filed on that date and the 9 sheets of drawings as resupplied on petition filed August 25, 2004.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
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SUITE 300
MCLEAN VA 22012

In re Application of :
Onishi, et al. :
Application No. 10/830,426 : DECISION GRANTING
Filed: April 23, 2004 : PETITION
Attorney Docket No. 577762000100 :

This is a decision on the petition to revive pursuant to 37 CFR 1.137(b), filed October 24, 2005.

The petition is **GRANTED**.

The application was deposited on April 23, 2004. However, on July 28, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was deposited without drawings. In addition, the Notice informed applicants that the statutory basic filing fee and the oath or declaration were missing.

On August 25, 2004, petitioner submitted a postcard receipt identifying this application, itemizing "9 drawings (9 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 23, 2004, and lacking any notation of non receipt of any item listed. However, nowhere in the petition did petitioner assert that the copies of the drawings which accompanied the petition are copies of the drawings as originally filed. Rather, petitioner stated that the drawings submitted on petition are an "additional set". Accordingly, the petition was dismissed in a decision mailed on April 4, 2005.

With a request for reconsideration filed June 6, 2005, petitioner stated on the record that the drawings supplied with the petition are a copy of the drawings as originally filed. Accordingly, the petition was granted in a decision mailed on July 20, 2005. However, the decision pointed out that because applicants failed to supply an executed oath or declaration, the application was abandoned.

With the instant petition, petitioner paid the petition fee, submitted an executed declaration together with the surcharge for its late filing, and made the proper statement of unintentional delay.

The Terminal Disclaimer filed with the petition is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The $130 fee for the Terminal Disclaimer has been applied towards the $130 late surcharge fee for the declaration.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 23, 2004, using the application papers filed on that date the 9 sheets of drawings as resupplied on petition filed August 25, 2004, and the declaration filed October 24, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JJGJR.: 02-05

Paper No: __

KATTEN MUCHIN
ZAVIS ROSENMAN
525 WEST MONROE STREET
CHICAGO IL 60661-3693

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FEB 0 9 2005
OFFICE OF PETITIONS

In re Application of
Smith :
Application No. 10/830,437 : DECISION ON PETITION
Filing Date: 23 April, 2004
Attorney Docket No. 213201.00202 :

This is a decision on the petition filed on 6 December, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 23 April, 2004, for Fig. 2 as described in the specification.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 23 April, 2004.

On 6 October, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 6 October Notice) and indicated that, while a filing date had been granted, it appeared, *inter alia*, that Fig. 2 as described in the specification was omitted from the application.

The 6 October Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to ignore the Notice and accept the application as filed.

In the 6 December, 2004, filing, Petitioner submitted, *inter alia*, the drawing, Fig. 2 as described in the specification along with a copy of the receipt card.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 23 April, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("APR 23 2004") and provides, *inter alia*:

* * *

1. Return Receipt Postcard
2. Utility Application Transmittal (1 page)
3. Application Data Sheet (1 page)

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

4. Specification (28 pages)
5. Formal Drawings (2 sheets)

* * *

The record further discloses that:

- the 1 sheet of drawings submitted with the petition contain Fig. 2–with the page numbered as "Sheet 2 of 2"–as described in the specification;

- the record as it existed prior to the filing of the instant petition contained 1 sheet of drawings–which was not Fig. 2 as described in the specification–and it is numbered as "Sheet 1 of 2"; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 2 sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the 1 sheet of drawings Fig. 2 (Sheet 2 of 2) as described in the specification was submitted on 23 April, 2004, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived and is credited to Deposit Account 50-1710; and the Notice mailed on 6 October, 2004, hereby is withdrawn as to the 1 sheet of drawings Fig. 2 (Sheet 2 of 2) as described in the specification of the application).

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 23 April, 2004, for the entire application and in particular for the 1 sheet of drawings Fig. 2 as described in the specification using:

- pages 1 - 28 (Specification, Claims, Abstract) and 1 sheet of drawings deposited on 23 April, 2004; and

- the 1 sheet of drawings Fig. 2 as described in the specification deposited on 6 December, 2004;

- with direction to OIPE to correct Office records to reflect that cover and 28 pages of specification (description, claims and abstract) and 2 sheets of drawings were present on filing on 23 April, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 23 April, 2004, reflecting therein that cover and 28 pages of specification (description, claims and abstract) and 2 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 310
AURORA NY 13026

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of
Alexander E. Smith et al
Application No. 10/830,444
Filed: April 23, 2004
Attorney Docket No. RANN-0018

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed May 11, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

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

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate nonprovisional applications were filed within twelve months of the filing date of the prior-filed provisional applications for which priority is claimed.

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

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

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

Any questions concerning this matter may be directed to 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 3662 for appropriate action on the amendment submitted May 11, 2006, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and

for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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	DRAWINGS	TOT CLMS	IND CLMS
10/830,444	04/23/2004	3662	1263	RANN-0018	9	34	12

CONFIRMATION NO. 7620

021261
ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 310
AURORA, NY 13026

CORRECTED FILING RECEIPT

OC000000020462012

OC000000020462012

Date Mailed: 09/18/2006

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)

Alexander E. Smith, McLean, VA;
Bennett Cohen, Alexandria, VA;

Power of Attorney: The patent practitioners associated with Customer Number **021261**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/457,439 06/10/2003 PAT 6,885,340
which claims benefit of 60/440,618 01/17/2003
and is a CIP of 10/319,725 12/16/2002 PAT 6,812,890
which claims benefit of 60/343,237 12/31/2001
and is a CON of 09/971,672 10/09/2001 PAT 6,567,043
which is a DIV of 09/516,215 02/29/2000 PAT 6,633,259
which claims benefit of 60/123,170 03/05/1999
and said 10/319,725 12/16/2002
is a CIP of 09/516,215 02/29/2000 PAT 6,633,259
which claims benefit of 60/123,170 03/05/1999
and said 10/457,439 06/10/2003
is a CIP of 09/516,215 02/29/2000 PAT 6,633,259
which claims benefit of 60/123,170 03/05/1999

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/830,444

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

CORRELATION OF FLIGHT TRACK DATA WITH OTHER DATA SOURCES

Preliminary Class

342

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

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Gentry, et al. :
Application No. 10/830,455 : DECISION ON PETITION
Filed: April 23, 2004 : TO WITHDRAW
Attorney Docket No. 3350-129 : FROM RECORD
:

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Antonelli, Terry, Stout & Kraus, LLP has been revoked by the assignee of the patent application on November 21, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: David Gentry	: DECISION ON REQUEST FOR
Patent Number	: 7640197	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1240** 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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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 05/18/2010

Applicant : David Gentry
Patent Number : 7640197
Issue Date : 12/29/2009
Application No: 10/830,455
Filed : 04/23/2004

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

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

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

The patent term adjustment has been determined to be **1290** 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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MARK C. COMTOIS
DUANE MORRIS LLP
1667 K STREET, N.W., SUITE 700
WASHINGTON, DC 20006

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Hans, Helmut	:	
Application No. 10/830,474	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. BOE01 051	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The Notice of Appeal filed January 31, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2800 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

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

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
Lex M. COWSERT, et al :
Application No. 10/830,475 : DECISION ON PETITION
Filed: April 21, 2004 : TO WITHDRAW
Attorney Docket No. 23546-08835/ISIS-2960US.C : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Fenwick & West, LLP has been revoked by the assignee of the patent application on January 29, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: PAUL K. LEGAARD, PH.D.
COZEN O'CONNOR
1900 MARKET STREET
PHILADELPHIA, PA 19103

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/830,475	04/21/2004	Lex M. Cowsert	23546-08835/ISIS-2960US.C

CONFIRMATION NO. 9651

OC000000023792767

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

Date Mailed: 05/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2007.

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

Diane Goodwyn

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/830,475	04/21/2004	Lex M. Cowsert	23546-08835/ISIS-2960US.C

CONFIRMATION NO. 9651

758
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801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000023792767

Date Mailed: 05/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2007.

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

Diane Goodwyn

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,477	04/22/2004	Anna Helgadottir	30847/2051-005	7709

4743 7590 11/19/2008

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
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EXAMINER	
GEMBEH, SHIRLEY V	
ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
11/19/2008	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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NOV 19 2008

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

In re Application of:
Anna Helgadottir et al.
Serial No.: 10/830,477
Filed: April 22, 2004
Attorney Docket No.: 30847/2051-005

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed October 30, 2008, requesting that the finality of the Office action of September 18, 2008 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on December 12, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 206-246 were pending. Claims 211 and 223-244 were withdrawn from consideration on the merits as being directed toward a non-elected invention, and claims 206-210, 212-222, 245 and 246 were examined on their merits. *Inter alia*, the examiner rejected claims 206-210, 212-222 and 245-246 under 35 USC § 112, first paragraph, for lacking enablement; rejected claims 213-214 under 35 USC § 112, first paragraph, for lacking written description; rejected claims 206, 212-213 and 217 under 35 U.S.C. 102(b) as being anticipated by Rossoni et al; rejected claims 206-210, 212-222 and 245-246 under 35 U.S.C. 103(a) as being unpatentable over Rossoni et al. taken with Gompertz et al. in view of Folco et al. and Byrum et al.

In response to the non-final Office action of December 12, 2007, applicants filed a response on June 10, 2008, said response including an amendment to claims 206 and 213. The amendment to claim 206, being pertinent to the focus of this petition, was amended by applicants to narrow the subject to a human.

The examiner mailed a final Office action on September 18, 2008 setting a three month statutory limit for reply. At the time of this final Office action, claims 206-246 were pending in the application. Claims 211 and 223-244 remained withdrawn from consideration on the merits as being directed toward a non-elected invention and claims 206-210, 212-222, 245 and 246 were examined on their merits. *Inter alia*, the examiner withdrew the rejection made in the non-final Office action under 35 U.S.C. 102(b) as being anticipated by Rossoni et al. and maintained the rejection of claims 206-210, 212-222 and 245-246 under 35 U.S.C. 103(a) as being unpatentable over Rossoni et al. taken with Gompertz et al. in view of Folco et al. and Byrum et al. as set forth

in the non-final Office action. Additionally, the examiner instituted a new rejection of claim 206 under 35 U.S.C. 102(a) as being anticipated by Gompertz et al.

On October 24, 2008 a telephonic interview took place between examiner Gembeh and Attorney for applicants, Sharon Sintich. In this interview, the Attorney requested the withdrawal of finality of the final Office action mailed on September 18, 2008 due to the placement of a new rejection over claim 206 under 102(a), however, the examiner indicated that the finality was proper due to applicants' amendments to the claims (see Interview Summary of October 24, 2008).

In response thereto, applicants filed this petition under 37 CFR § 1.181 on October 30, 2008, requesting that the finality of the Office action of September 18, 2008 be withdrawn.

DISCUSSION

In the petition filed on October 30, 2008, applicants argue that rendering final the Office action mailed September 18, 2008 was improper due to the examiner's new rejection therein of claim 206 under 35 U.S.C. 102(a) as being anticipated by Gompertz et al. Applicants assert, contrary to the examiner's position as stated in the Interview of October 24, 2008, that this rejection instituted by the examiner in the final Office action was a new rejection which was not necessitated by applicants' amendments to the claims filed on June 10, 2008. Specifically, applicants refute the examiner's position that the amendment of claim 206 made on June 10, 2008 to narrow the subject receiving treatment to a 'human' subject necessitated the new rejection of claim 206 under 35 U.S.C. 102(a) as being anticipated by Gompertz et al. Applicants subsequently requested the removal of the finality of the Office action mailed September 18, 2008, contending that the finality of said Office action was premature and thus in error.

Applicants, in defense of their position, allege that their amendment filed on June 10, 2008, submitted in the interim between the non-final and final Office action, did not necessitate the examiner's new ground of rejection in the final Office action:

> The Examiner stated in the telephonic interview that the addition of the term "human" to claim 206 necessitated the new anticipation rejection. The claim as originally presented recited the phrase "administering to a subject in need," and the specification as a whole indicates that the term "subject" includes human. Therefore, a proper search based on the originally presented claim should encompass any methods of administering to a human subject in need. The insertion of the word "human" narrows the scope of the term "subject;" and therefore, the addition of this term to claim 206 would not compel the Examiner to carry out a new search and does not necessitate a new anticipation rejection. In fact, the Gompertz reference newly cited as anticipatory, was of record in the earlier actions, but never alleged to anticipate any claim. Therefore, Gompertz, et al., if an appropriate basis for an anticipation rejection, should have been cited in a non-final office action. (p. 3, Petition).

Applicants additionally argue:

> MPEP § 706.02 states that the Examiner is not required to cite every possible anticipating reference and citing cumulative references should be avoided. A cumulative reference does not add new information to the record and merely supports the originally cited reference. Gompertz et al. is not cumulative to Rossoni

> et al. as indicated by the basis of the anticipation rejections and the fact that the Examiner cited each reference to support the rejection under 35 U.S.C. § 103... (p. 3, Petition).

Applicants support this rational by indicating that the examiner cited both the Gompertz et al. reference and the Rossoni et al. reference in the rejection made under 35 USC 103(a), not as cumulative references; but rather, as references to support each other in rendering obvious the claimed invention (pp. 3-5, Petition). Having established that the Gompertz et al. and Rossoni et al. references are not cumulative, applicants thus contend that the "...new anticipation rejection based on Gompertz et al. was not necessitated by an IDS, the rejection under 35U.S.C. § 102(a) in view of Gompertz et al. is a new rejection and the finality of the outstanding office action is premature" (p. 5, Petition).

Applicants additionally argue that while the Gompertz et al. reference was originally used in a rejection under 35 U.S.C. § 103(a) in the non-final Office action mailed December 12, 2007, "...a rejection under § 102 is a new rejection even though it follows a rejection under 35 U.S.C. § 103(a)" (p. 5, Petition). In support thereof, applicants offer the following:

> See *In Re Meyer* 599 F.2d 1026 (CCPA 1979). On appeal, the Board in *In re Meyer* rejected a claim under 35 U.S.C. § 102 using a reference that was only cited under 35 U.S.C. § 103 during prosecution and stated this was not a new rejection. The Court determined that even though the reference was already cited and anticipation is the ultimate obviousness rejection, the rejection under 35 U.S.C. § 102 was a new rejection. Therefore, even though the Examiner cited Gompertz et al. earlier in the prosecution history under 35 U.S.C. § 103, the rejection in view of Gompertz et al. under 35 U.S.C. § 102 is new and therefore finality is premature. (p. 5, Petition).

While applicants' arguments pertaining to the allegation that the Gompertz et al. and Rossoni et al. are not cumulative references, and were not used by the examiner as cumulative references upon placing the rejections made under 35 USC § 103 (a) in the non-final Office action as well as in the final Office action, this argument is not pertinent to whether the finality of the Office action mailed September 18, 2008 was proper or not. No impropriety is found on the part of the examiner in citing the Gompertz et al. and Rossoni et al. references together in the rejections made under 35 USC § 103 (a) in either the non-final or final Office actions. Moreover, as clearly stated by applicants, the MPEP discourages the use of cumulative references in rejections, and applicants' assertion that the Gompertz et al. and Rossoni et al. references are not cumulative merely emphasizes the contention that the rejections made by the examiner under 35 USC § 103 (a) in either the non-final or final Office actions were proper.

Applicants' argument that the 35 USC § 102 rejection rendered in the final Office action is a *new* rejection considering that Gompertz et al. had only previously been cited under 35 USC § 103 (a) in the non-final Office action is well taken. The 35 USC § 102 (a) rejection using Gompertz et al. was indeed a new rejection instituted by the examiner in the final Office action. However, new rejections in a final Office action are permitted under certain circumstances. Specifically, finality of Office actions on a second action is governed by MPEP § 706.07(a):

> Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted*

> *in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)* with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. (emphasis added)

Therefore, the MPEP establishes that new rejections may be made in final Office actions so long as the new rejections are necessitated by applicants' amendment(s) to the claims, or based upon information submitted in an information disclosure statement. It is clearly evident that upon amending claim 206, in the response filed on June 10, 2008, applicants limited the broadly recited 'subject' of claim 206 to specifically recite that the subject was 'human.' Limiting the subject of claim 206 from any subject to a 'human' subject obviated the previous 35 USC § 102 (b) rejection of claim 206 over Rossoni et al. instituted by the examiner in the non-final Office action, thereby necessitating the removal of this rejection in the final Office action.

Applicants' amendment filed on June 10, 2008, limiting the subject of the method to a human subject necessitated the subsequent rejection of claim 206 by the examiner under 35 USC § 102(a) using Gompertz et al. Although applicants argue "In fact, the Gompertz reference newly cited as anticipatory, was of record in the earlier actions, but never alleged to anticipate any claim. Therefore, Gompertz, et al., if an appropriate basis for an anticipation rejection, should have been cited in a non-final office action" (p. 3, Petition), applicants also correctly point out that "..MPEP § 706.02 states that the Examiner is not required to cite every possible anticipating reference and citing cumulative references should be avoided" (*Id*). Hence, while the Gompertz et al. reference had previously been cited under 35 USC § 103(a) by the examiner in the non-final Office action; 1) the examiner was not required to render all possible rejections made under 35 USC § 102 in the non-final Office action, even considering that the Gompertz et al. reference was used in said Office action in a rejection made under 35 USC § 103(a) and qualified as a reference under 35 USC § 102(a) and 2) the examiner made the best rejection over claim 206 considering that prior to applicants' amendment submitted on June 10, 2008 which limited the subject of the claims to a human subject, the Rossoni et al. reference was a statutory bar reference over claim 206; i.e., a 35 USC § 102(b) rejection as opposed to the Gompertz et al. reference which was a 35 USC § 102(a) rejection. Therefore, although the examiner did not institute a rejection over claim 206 under 35 USC § 102(a) using Gompertz et al. reference at the time the non-final Office action was mailed, no impropriety on the part of the examiner is found because the rejection of claim 206 under 35 USC § 102(b) as anticipated by Rossoni et al. at the time the non-final Office action was mailed was a proper rejection, and was the best rejection which could have been made between the Gompertz et al. reference and the Rossoni et al. reference.

The provision of MPEP § 904.2 which indicates that a search should cover the claimed subject matter and should also cover the disclosed features which might reasonably be expected to be claimed does not preclude an examiner from making the second or any subsequent Office action on the merits final if the Office action contains a new ground of rejection that was necessitated solely by applicants' amendment of the claims to eliminate an unpatentable alternative. An

examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances:

> A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. *However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances* (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph). (MPEP § 706.07, emphasis added).

Thus, applicants' argument asserting that "...the specification as a whole indicates that the term "subject" includes human... a proper search based on the originally presented claim should encompass any methods of administering to a human subject in need. The insertion of the word "human" narrows the scope of the term "subject;" and therefore, the addition of this term to claim 206 would not compel the examiner to carry out a new search and does not necessitate a new anticipation rejection" is not found persuasive.

Hence, the new rejection of claim 206 rendered by the examiner under 35 USC § 102(a) using Gompertz et al. in the final Office action was necessitated by applicants' amendment to claim 206 which limited the subject of the claim to a human subject. Subsequently, applicants' arguments are not persuasive that the final Office action issued September 18, 2008 was premature and therefore finality of the Office action will be not be withdrawn.

DECISION

The petition is **DENIED.**

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

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091122

DATE : November 22, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7304174

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091122

DATE : November 22, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7304174

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Kenji Yamamoto
Application No.: 10/830,499
Filed: April 23, 2004
Attorney Docket No: 05905.0027-01
For: VIRTUAL IMAGE GENERATION APPARATUS AND METHOD

: DECISION ACCORDING
: RULE 47(b) STATUS

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

The petition is **GRANTED**.

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

The above-cited reissue application was filed on April 23, 2004, without an executed declaration. In the instant petition, petitioner maintains that inventor Yamamoto cannot be located to execute the declaration and join the prosecution of the above-cited reissue application.

Petitioner has shown that inventor Yamamoto cannot be located to join the prosecution of the above-identified reissue application. The above-identified reissue application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kenji Yamamoto
1-2-11-402, Minami-rokugo
Ota-ku, Tokyo

COPY MAILED

JUL 1 8 2005

LETTER **OFFICE OF PETITIONS**

In re Application of :
Kenji Yamamoto :
Reissue Application No.: 10/830,499 :
Filed: April 23, 2004 :
Attorney Docket No: 05905.0027-01 :
For: VIRTUAL IMAGE GENERATION APPARATUS AND METHOD

Dear Mr. Yamamoto:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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PAPARELLA & ASSOCIATES, PLC
3878 CASCADE RD. SE
GRAND RAPIDS, MI 49546

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JUN 0 3 2010

OFFICE OF PETITIONS

In re Patent No. 6,964,067 :
Issue Date: November 15, 2005 :
Application No. 10/830,519 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. UTO01-P300 :

This is a decision in response to a petition filed April 8, 2010, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 15, 2009 for failure to pay the 3 ½ 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.

The Power of Attorney filed on April 8, 2010, cannot be accepted since it appears to have been submitted by the assignee without a Statement Under 3.73(b) was not enclosed. However, in accordance with 37 CFR 1.34, the signature of Eric Hanscom appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ERIC HANSCOM
LAW OFFICES OF ERIC HANSCOM
7395 PORTAGE WAY
CARLSBAD, CA 92011

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed :October 19, 2007
Patent No. :7,176,542 B2
Ser. No. :10/830540
Inventor(s) :Gilmore J. Dunning, et al.
Issued :February 13, 2007
Title: PHOTO INDUCED-EMF SENSOR SHIELD

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 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.

Magdalene Talley
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Robert Popa
c/o Ladas & Parry LLP
5670 Wilshire Blvd., Ste. 2100
Los Angeles, CA 90036-5679

CBN/mt

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NEW YORK 10020-1105

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Gregory Starr et al :
Application No. 10/830,562 : DECISION GRANTING PETITION
Filed: April 22, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ALT-315 :

This is a decision on the petition, filed November 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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JUL 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Rahul Kapoor et al	:	DECISION GRANTING
Application No. 10/830,584	:	PETITION
Filed: April 23, 2004	:	
Attorney Docket No. MSFT-3964/167392.2	:	

This is a decision on the petition under 37 CFR 1.10(d), filed May 27, 2004, requesting that the above-identified application be accorded a filing date of April 23, 2004, rather than the presently accorded filing date of April 22, 2004.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 23, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided a copy of Express Mail receipt number EL999292160US, and a U.S. Postal Service (USPS) sales receipt for the Express Mail package in question. The same Express Mail number appears on the original transmittal letter submitted with the instant application.

It is noted that the Express Mail receipt shows a handwritten "date-in" of "04-22-04", the receipt also includes a USPS receipt stamp date April 23, 2004 but the notation is illegible. However, the USPS sales receipt clearly shows that Express Mail label No. EL999292160US was accepted for deposit on April 24, 2004.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 23, 2004. Accordingly, the instant application is entitled to a filing date of April 23, 2004, and has been so accorded.

The petition is granted. The $130.00 petition fee is being credited to Deposit Account No. 08-3038 as authorized.

This matter is being referred to Technology Center AU 2171 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :

DOLLE :
Application No. 10/830,601 : DECISION ON PETITION
Filed: April 23, 2004 : TO WITHDRAW
Attorney Docket No. D403.12-0001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 2006.

The request is **APPROVED**.

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

The request was signed by Z. Peter Sawicki, on behalf of all attorneys of record who are associated with Customer No. 27367. All attorneys/agents associated with the Customer Number 27367 have been withdrawn.

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

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

The application became abandoned for failure to timely respond to an Office Action mailed November 14, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: RON DOLLE
3096 N. CLEVELAND AVENUE
ROSEVILLE MN 55113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Carl C. Kling
Anvik Corporation
General Counsel
6 Skyline Drive
Hawthorne NY 10532

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Kanti Jain :
Application No. 10/830,607 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. A 403 :

This is a decision on the renewed petition under 37 CFR §1.137(b), filed February 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the Office Action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 7, 2007. The Office action also contained a restriction requirement. The Notice set a non extendable one month period of reply was set. Accordingly, this application became abandoned on July 8, 2007. A Notice of Abandonment was mailed December 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Pursuant to petitioner's request deposit account no. 01-2142 will be charged the $770.00 petition fee.

The address on the petition differs from the correspondence address of record. If appropriate a change of correspondence address should be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are

received to the contrary.

This application is being referred to Technology Center AU 2885 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: Carl C. Kling
P.O. Box 305
Hawthorne, NY 10532-0305

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ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON AZ 85718-1331

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JUL 2 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Mikhael et al.	:	
Application No. 10/830,608	:	DECISION ON PETITION
Filed: April 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Atty Docket No. 861133.00011	:	and 1.78(a)(6)
	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed application No. 10/465,399, as set forth in a concurrently filed amendment. For the reasons set forth herein, this petition is also being treated as a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of provisional application No. 60/391,864, also set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on April 23, 2004, and was pending at the time of the filing of the instant petition. On petition, references to the prior-filed nonprovisional and the prior-filed provisional application 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) and 1.78(a)(5)(iii). The petition included the required surcharge. Petitioner states that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim is being filed was unintentional. This statement is being construed as a statement that the delay in filing the claim under 37 CFR 1.78(a)(5)(ii) was also unintentional. Petitioner must advise the Office if this interpretation of their statement is incorrect.

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

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

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

Any questions concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1762 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed nonprovisional and prior-filed provisional applications.

Frances Hicks for
Charles Pearson
Director
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/830,608	04/23/2004	1762	574	861133.00011	7	41	1

CONFIRMATION NO. 8414

57931
ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON, AZ 85718-1331

CORRECTED FILING RECEIPT

OC000000019715827

Date Mailed: 07/21/2006

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)

Michael G. Mikhael, Tucson, AZ;
Angelo Yializis, Tucson, AZ;

Power of Attorney: The patent practitioners associated with Customer Number **34282**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/465,719 04/25/2003
and is a CIP of 10/465,399 06/19/2003
which claims benefit of 60/391,864 06/26/2002

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 US10/830,608

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

FUNCTIONALIZATION OF POROUS MATERIALS BY VACUUM DEPOSITION OF POLYMERS

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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APR 16 2009

OFFICE OF PETITIONS

MEDIMMUNE, LLC
Jonathan Klein-Evans
ONE MEDIMMUNE WAY
GAITHERSBURG MD 20878

In re Application of :
SPAETE et al. :
Application No. 10/830,609 : ON APPLICATION FOR
Filed: 04/23/2004 : PATENT TERM ADJUSTMENT
Atty Docket No. HS110US :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed February 27, 2009. Applicant requests that the determination of patent term adjustment be increased to 535 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, 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 three years. See 37 CFR 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)).

Applicant is 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 three years. A copy of this decision should accompany the request. Applicant 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, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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 applicant is 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 February 1, 2008.

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

The application is being forwarded to the Office of Data Management for issuance of the 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 Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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APR 15 2010

OFFICE OF PETITIONS

MEDIMMUNE, LLC
Patrick Scott Alban
ONE MEDIMMUNE WAY
GAITHERSBURG MD 20878

In re Patent No. 7,592,169	:	DECISION ON REQUEST FOR
SPAETE et al.	:	RECONSIDERATION OF
Issue Date: September 22, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/830,609	:	NOTICE OF INTENT TO ISSUE
Filed: April 23, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. HS110US	:	

This is a decision on the petition filed on November 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred two (502) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred one (501) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 24, 2007, and ends on January 31, 2008, the day before the RCE was filed, and is 283 (not 284) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 501, not 502 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred one (501) 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: 7,592,169 B2
DATED: Sept. 22, 2009 **DRAFT**
INVENTOR(S): SPAETE 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 218 days

Delete the phrase "by 218 days" and insert – by 501 days--

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

Mail Date: 04/20/2010

Applicant	: Mark C. Boomer	: DECISION ON REQUEST FOR
Patent Number	: 7572282	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,621	: OF WYETH
Filed	: 04/23/2004	:
		:

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

Mail Date: 05/17/2010

Applicant : Mark C. Boomer
Patent Number : 7572282
Issue Date : 08/11/2009
Application No: 10/830,621
Filed : 04/23/2004

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **96** 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** 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 1.18(e), the 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 deterimation 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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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AUG 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cutter et al. :
Application No. 10/830,632 :
Filed: April 23, 2004 :
Attorney Docket No. MSFT-3839 :

This is a decision on the petition under 37 CFR 1.10(d), filed May 27, 2004, requesting that the above-identified application be accorded a later filing date of April 23, 2004, rather than the presently accorded date of April 22, 2004. The petition is more appropriately a petition under 37 CFR 1.10(c) and has been so treated.

Applicants request the later date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 23, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL 999296705US showing a handwritten "date-in" of April 22, 2004 as well as an April 23, 2004 Phil PA USPS date stamp. The same Express Mail receipt number was placed on the original patent application transmittal letter. Additionally, applicant has submitted a copy of a postal service sales receipt which shows Express Mail label No. EL 999296705US and having a receipt date of April 23, 2004 and a Track & Confirm record showing that the package in question was accepted on April 23, 2004, at 4:48 p.m. in Philadelphia, PA.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on April 23, 2004. Accordingly, the instant application is entitled to a filing date of April 23, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require payment of a petition fee. Accordingly, the $130.00 submitted with the instant petition will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.

This matter is referred to the Office of Initial Patent Examination for **processing with a filing date of April 23, 2004.**

RECEIVED

AUG 1 7 2004

Technology Center 2100

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

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Ester SALMAN, et al	:	
Application No. 10/830,656	:	DECISION ON PETITION
Filed: April 23, 2004	:	TO WITHDRAW
Attorney Docket No. CHI-100US	:	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 14, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, prospective conflict of interest, does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MS. ESTER SALMAN, CHIMATRIX, LLC
123 WEST 79TH STREET
NEW YORK, NY 10024

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JUN 10 2008

OFFICE OF PETITIONS

In re Application of
Ester SALMAN, et al
Application No. 10/830,656
Filed: April 23, 2004
Attorney Docket No. CHI-100US

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 9, 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 Larry E. Ashery on behalf of all practitioners of record associated with Customer Number 23122.

All practitioners of record associated with Customer Number 23122 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ESTER SALMAN
47 SHAW PLACE
HARTSDALE, NY 10530

ESTER SALMAN, CHIMATRIX, LLC
123 WEST 79TH STREET
NEW YORK, NY 10024

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GOLD & RIZVI, P.A.
600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION, FL 33324-1311

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MAR 07 2007

OFFICE OF PETITIONS

In re Application of Perry :
Application No. 10/830,682 : Decision on Petition
Filing Date: April 23, 2004 :
Attorney Docket No. 1124.0100 :

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 **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed January 24, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 25, 2006. A Notice of Abandonment was mailed October 5, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 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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Paper No. None

Patent & Trademark Counsel
The Gillette Company
39th Floor
Prudential Tower Bldg.
Boston MA 02199

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Phillip M. Braun et al. :
Application No. 10/830,693 : DECISION ON PETITION
Filing Date: April 23, 2004 : UNDER 37 C.F.R. §1.78(a)(3)
Attorney Docket No.: OB-220 :
Title: TOOTHBRUSH :

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed April 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 10/389,448, filed March 14, 2003, as 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.

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

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

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional application, accompanies this decision on petition. Technology Center Art Unit 1744 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this petition, 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 application.

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

It is noted that a change of address was submitted with the present petition, however the change of address was not signed by an attorney of record, and the individual who has submitted this request has not associated a registration number with her signature. As such, the request will not be entered, pursuant to 37 C.F.R. §1.33.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

cc: Holly D. Kozlowski
Dinsmore & Sholl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/830,693	04/23/2004	1744	2294	OB-220	11	64	10

CONFIRMATION NO. 8058

CORRECTED FILING RECEIPT

OC000000019146355

Patent & Trademark Counsel
The Gillette Company
39th Floor
Prudential Tower Bldg.
Boston, MA 02199

Date Mailed: 06/07/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Phillip M. Braun, Exeter, RI;
Joseph Synodis, Wayland, MA;
Ronald R. Duff JR., Shrewsbury, MA;
Richard H. Cohen, Sherborn, MA;
Thomas Craig Masterman, Brookline, MA;

Assignment For Published Patent Application

The Gillette Company

Power of Attorney:

Charles Boukus Jr--24754
Donal Tobin--25711
Peter Galloway--27885
Stephen Williams--28546
John Richards--31053
Paul Douglas--31244
Chester Cekala--32971
David Howley--34624
Edward Podszus--35983
Thomas Krivulka--38525

Domestic Priority data as claimed by applicant

This application is a CON of 10/389,448 03/14/2003

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 US10/830,693

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Toothbrush

Preliminary Class

015

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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William N Hulsey
Hulsey Intellectual Property Lawyers P C
1250 S Capitol of Texas Hwy
Bldg 3 Suite 610
Austin TX 78746

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FEB 2 7 2007

OFFICE OF PETITIONS

In re Application of :
Mark H. SPRINGER :
Application No. 10/830,694 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. SPRG001US0 :

This is in response to the petitions under 37 CFR 1.59(b), filed October 4, 2006, to expunge information submitted in support of a petition to make special and under 37 CFR 1.102(c)(1) to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III..

The petition under 37 CFR 1.59(b) is **DISMISSED.**

Petitioner requests that the document supporting the petition to make special filed on October 4, 2006 be expunged.

While the document may not be material to patentability in itself, the USPTO under the Administrative Procedures Act is required to maintain a complete record of the proceedings in a patent application. As it is necessary maintain a complete record of the evidence upon which a decision on the petition to make special was based the document will not be expunged.

The petition under 37 CFR 1.102(c)(1) is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to your David Bucci at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit art unit 3693 for action on the merits commensurate with this decision.

Brian Hearn
Petitions Examiner
Office of Petitions

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Geoffrey D. Hietpas et al. :
Application No. 10/830,700 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket Number: LP5560USNA :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed September 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 6, 2005, for failure to timely reply to the Notice to File Missing Parts mailed on November 5, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed August 19, 2005.

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged. Fees in the amount of $1,500.00 for the petition have been posted to the finance records for this application.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

SPE: L. Morris

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/06

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/830,711 Patent No.: 7004491

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Lesley D Morris — **SPE**

3611 — **Art Unit**

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLM
10/830,714	04/23/2004	1754	0.00	MTV-075.01	22	42	4

CONFIRMATION NO. 9

CORRECTED FILING RECEIPT

OC000000013508749

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 08/11/2

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

Applicant(s)

Jackie Y. Ying, Residence Not Provided;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Non-Publication Request: No

Early Publication Request: No

Title

Mesostructured zeolitic materials, and methods of making and using the same

Preliminary Class

502

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 LICEN GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions 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. 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 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless 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 revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is 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 impo by any Government contract or the provisions of existing laws relating to espionage and the national security or the expor technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of o agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Impleme of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office 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 LICEN GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is des before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign the application pursuant to 37 CFR 5.15(b).

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON, MA 02110

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JUL 31 2006

OFFICE OF PETITIONS

In re Application of :
Jackie Y. Ying et al :
Application No. 10/830,714 : DECISION ON PETITION
Filed: April 23, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. MIT-075.01 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed May 8, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 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. No fee is required.

The instant petition fails to support that the claimed invention will materially contribute to the more efficient utilization and conservation of energy resources or is a discovery or development of energy resources. While petitioner states "In particular, one or more claims of the application relate to the development, improvement, and/or application of crystalline inorganic material that can be used for improved production of gasoline from crude oil." the petition does not clearly explain how applicant's invention would actually contribute materially to the conservation of energy. Additionally, the petition does not clearly explain how the claimed invention materially contributes to the discovery or development of energy resources.

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

By Mail: Mail Stop PETITION
Commissioner for Patents

P. O. Box 1450
Alexandria, VA 22313-1450

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 1755 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Jackie Y. Ying	: DECISION ON REQUEST FOR
Patent Number	: 7589041	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,714	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1103** 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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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 05/18/2010

Applicant : Jackie Y. Ying
Patent Number : 7589041
Issue Date : 09/15/2009
Application No: 10/830,714
Filed : 04/23/2004

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

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

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

The patent term adjustment has been determined to be **1175** 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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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/21/2010

Applicant	: Ole Kirkeby	: DECISION ON REQUEST FOR
Patent Number	: 7587254	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/830,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1461** 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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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 05/18/2010

Applicant : Ole Kirkeby
Patent Number : 7587254
Issue Date : 09/08/2009
Application No: 10/830,715
Filed : 04/23/2004

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

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

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

The patent term adjustment has been determined to be **1514** 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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FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
Bredesen, et al. :
Filed: April 23, 2004 : ON PETITION
Application No. 10/830,719 :
Atty. Dkt. No.: BUCK1130 :
(079653-0401) :

This decision is in response to the "PETITION TO THE DIRECTOR IN RESPONSE TO NOTICE OF OMTTED ITEM(S) IN A NON-PROVISIONAL APPLICATION" filed September 1, 2004 in response to the "Notice of Incomplete Nonprovisional Application ("Notice") mailed August 2, 2004 to accord the above-identified application a filing date of April 23, 2004.

The application was filed April 23, 2004. The Notice mailed indicated that the application had been accorded a filing date but that Page 6 of the specification appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioners argue that the application as deposited included thirteen pages of specification, including page six. Petitioners have included as proof of mailing and proof of receipt of page six a return postcard date stamped by the Office on April 23, 2004. A copy of page six was submitted with the instant petition.

The original page six submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of April 23, 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.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 23, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Shertukde, et al. :
Filed: April 23, 2004 : ON PETITION
Application No. 10/830,719 :
Atty. Dkt. No.: 7558-0001 :

This decision is in response to the "PETITION TO THE DIRECTOR IN RESPONSE TO NOTICE OF OMTTED ITEM(S) IN A NON-PROVISIONAL APPLICATION" filed September 1, 2004 in response to the "Notice of Incomplete Nonprovisional Application ("Notice") mailed August 2, 2004 to accord the above-identified application a filing date of April 23, 2004, and corrects the decision mailed October 26, 2004.

The application was filed April 23, 2004. The Notice mailed indicated that the application had been accorded a filing date but that Page 6 of the specification appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioners argue that the application as deposited included thirteen pages of specification, including page six. Petitioners have included as proof of mailing and proof of receipt of page six a return postcard date stamped by the Office on April 23, 2004. A copy of page six was submitted with the instant petition.

The original page six submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of April 23, 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.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 23, 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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Shertukdu, Shertudke, Beckmann & McLaughlin :
Application No. 10/830,719 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. MEDSS.001A :
For: APPARATUS AND METHOD FOR NON-INVASIVE DIAGNOSING OF CORONARY ARTERY DISEASE

This is a decision on the petition under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires an executed oath or declaration by the actual inventors. Both petitions were filed on November 2, 2006 (certificate of mailing date October 30, 2006).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **GRANTED**.

The petition under 37 CFR 1.48(a) to correct inventorship is **GRANTED**.

An executed declaration in compliance with 37 CFR 1.63 was filed on April 23, 2004. The executed declaration listed two joint inventors – Hemchandra Shertukde and Rekha Shertukde.

The instant petitions were filed to correct the inventorship by adding Peter V. Beckmann and Raymond McLaughlin as a joint inventors. The evidence presented shows that on two occasions, J. Bruce Boisture, President and CEO of MedScanSonics, Inc., the assignee of the invention, mailed the Shertukdes a declaration and a copy of the application, along with a request that they return an executed declaration. In a letter dated October 2, 2006, the Shertukdes acknowledged receiving the packages, but refused to cooperate. Petitioners have shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

Petitioners have also satisfied the requirements of 37 CFR 1.48(a): Petitioners requested correction of inventorship and set forth the desired inventorship change; petitioners have provided a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his part; petitioners successfully obtained waiver of the requirement that the actual inventors execute the declaration; the processing fee was paid; and written consent of the assignee was submitted.

The petition under 37 CFR 1.48 is **granted**.

Petitioners have shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Peter V. Beckmann and Raymond McLaughlin as a joint inventors.

Please find enclosed a corrected filing receipt that reflects the inventorship change.

After the mailing of this decision, the application will be forwarded to Technology Center A.U. 3735 for further examination.

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

Shirene Willis Brantley
Senior Petitions Attorney
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	DRAWINGS	TOT CLMS	IND CLMS
10/830,719	04/23/2004	3735	510	7558-0001	18	16	2

CONFIRMATION NO. 9047

CORRECTED FILING RECEIPT

OC000000021729435

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 12/26/2006

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)

Hemchandra Shertukde, Simsbury, CT;
Rekha Shertukde, Simsbury, CT;
Peter V. Beckmann, Hartford, CT;
Raymond McLaughlin, Hartford, CT;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/464,777 04/23/2003

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 US10/830,719

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Apparatus and method for non-invasive diagnosing of coronary artery disease

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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COUDERT BROTHERS LLP
TWO PALO ALTO SQUARE, 4TH FLOOR
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

JUN 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Frank Nan Zhang	:	DECISION GRANTING
Application No. 10/830,750	:	PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 75180-39	:	

This is a decision on the papers styled, "Request For Corrected Filing Receipt," filed May 17, 2004, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of April 22, 2004, rather than the presently accorded filing date of April 21, 2004.

Petitioners allege that the application was deposited in Express Mail service on April 22, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. ER452486924US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 22, 2004.

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

Accordingly, the application is entitled to a filing date of April 22, 2004.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 22, 2004 and issuance of a corrected filing receipt.

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

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JUL 19 2004 PATENT & TRADEMARK OFFICE

RECEIVED
JUN 21 2004
COUDERT BROTHERS

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PALO ALTO, CA 94306

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Frank Nan Zhang	:	DECISION GRANTING
Application No. 10/830,750	:	PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 75180-39	:	

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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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/830751 Patent No.: 7091374

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

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

Check C of C

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Yvonne Eyler — SPE

1621 — Art Unit

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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
10/830,773	04/22/2004	1616	1198	SD-8511	3	27	5

CONFIRMATION NO. 8484

UPDATED FILING RECEIPT

OC000000013440977

Timothy P. Evans
MS 9031
Sandia National Laboratories
7011 East Avenue
Livermore, CA 94550

Date Mailed: 08/05/2004

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

Applicant(s)

Kamlesh D. Patel, Dublin, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Non-Publication Request: No

Early Publication Request: No

Title

Electrokinetic pump

Preliminary Class

424

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

GRANTED

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

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

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

NOT GRANTED

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

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1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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MAY 07 2008

OFFICE OF PETITIONS

In re Application of :
Barnaby Merrick HARFORD et al :
Application No. 10/830,781 : ON PETITION
Filed: 4/23/2004 :
Attorney Docket No. EXIN122812 :

This is a decision on the petition under 37 CFR 1.137(b), filed 4/4/2008, 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 7/30/2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on 1/31/2008.

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 an amendment, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of 7/30/2007 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.

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 Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3692 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 7 2004

Paper No. 110104

DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

In re Application of:
Kurtz
Serial No.: 10/830,796
Filed: April 23, 2004
Attorney Docket No.: **Kulite-98**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 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 Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

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P.O. Box 1450
Alexandria, VA 22313-1450
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U.S. ARMY SPACE AND MISSILE DEFENSE COMMAND
P.O. BOX 1500
ATTN: SMDC-LC-S (J. GILSDORF)
HUNTSVILLE AL 35807-3801

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JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of
Michael J. Madewll
Application No. 10/830,805
Filed: April 21, 2004
Attorney Docket Number: 7300

ON PETITION

This is a decision on the petition filed June 15, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on May 8, 2006 after the applicant failed to pay the issue fee by May 7, 2006 as was indicated in the Notice of Allowance mailed February 7, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner argues that the Notice of Allowance mailed February 7, 2006 was not received and provides a copy of the docket and a statement that the a search of the file jacket and docket confirms that the Notice of Allowance was not received.

A review of the file reveals that the Notice of Allowance was mailed to the address of record on February 7, 2006 but that subsequent to the mailing of the Notice of Allowance, a power of attorney was filed on June 1, 2006, which requested that the address be changed to correspond with a different customer number other than the one in use at the time.

The evidence presented to support the statement that the Notice of Allowance was not

received includes a docket record however, in view of the address change, it is not clear that the docket is for the address of record up to June 1, 2006 or the newly changed address record as of June 1, 2006.[1]

The office action mailed October 28, 2006, nor the response filed in response thereof on November 22, 2006 is included in the docket record provided. Without proof that the docket record is the same for both the address of record on February 7, 2006 and that of June 1, 2006, it can not be concluded from the evidence provided that the Notice of Allowance was not received at the correspondence address of record.

As petitioner has not presented sufficient evidence to show non-receipt, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides that where the delay in reply was unintentional, a

---

[1]The address of record at the time the Notice of Allowance was mailed on February 7, 2006 was associated with customer number 34900. The address of record was changed June 1, 2006 with a power of attorney to correspond with customer number 50003.

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

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

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

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

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

U.S. ARMY SPACE AND MISSILE DEFENSE COMMAND
P.O. BOX 1500
ATTN: SMDC-LC-S (J. GILSDORF)
HUNTSVILLE AL 35807-3801

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of
Michael J. Madewll
Application No. 10/830,805
Filed: April 21, 2004
Attorney Docket Number: 7300

This is a decision on the renewed petition filed August 3, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on May 8, 2006 after the applicant failed to pay the issue fee by May 7, 2006 as was indicated in the Notice of Allowance mailed February 7, 2006. Prior to a mailing of the Notice of Abandonment, a petition was filed June 15, 2006 claiming that the Notice of Allowance mailed February 7, 2006 was not received. Petitioner provided a copy of the docket and a statement that the a search of the file jacket and docket confirmed that the Notice of Allowance had not been received.

The petition was dismissed in a decision mailed July 6, 2006 because while a docket was provided as proof of non-receipt, a review of the file revealed that subsequent to the mailing of the Notice of Allowance, a power of attorney was filed on June 1, 2006, which requested that the address be changed to correspond with a different customer number other than the one in use at the time. The evidence presented did not therefore show that the docket provided was for the address of record up to June 1, 2006 or the newly changed address of record as of June 1, 2006.[1]

Comes now petitioner claiming that the change filed June 1, 2006 was not an address change but instead was submitted for the purposes of changing the attorney of record in view of the prior attorney no longer working for the U.S. ARMY SPACE AND MISSILE DEFENSE COMMAND.

---

[1]The address of record at the time the Notice of Allowance was mailed on February 7, 2006 was associated with customer number 34900. The address of record was changed June 1, 2006 with a power of attorney to correspond with customer number 50003.

In view thereof, and in that the statement from the petitioner and the exhibit from the docket record and file jacket for the instant matter show no entry indicating receipt of the Notice of Allowance and Notice of Allowability mailed February 7, 2006, it is apparent that they were not received. Accordingly, the holding of abandonment is withdrawn.

This matter is being referred to Technology Center 3662 for a re-mailing of the Notice of Allowance after which time the issue fee must be paid.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/830,824	04/23/2004	2818	1022	SNDK.359US0	12	34	2

CONFIRMATION NO. 4305

CORRECTED FILING RECEIPT

OC000000014022406

36257
PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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)

Yan Li, Milpitas, CA;
Yupin Kawing Fong, Fremont, CA;
Toru Miwa, Kanagawa, JAPAN;

Assignment For Published Patent Application

SanDisk Corporation

Power of Attorney:

James Hsue--29545

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/830,824

Projected Publication Date: 10/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Non-volatile memory and control with improved partial page program capability

Preliminary Class

365

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

GRANTED

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

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

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

NOT GRANTED

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

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

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Michel Gilbert, et al. :
Application No. 10/830,825 : NOTICE
Filed: April 24, 2004 :
Attorney Docket No. 019633-000122US

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being forwarded to Technology Center 1645 for examination in due course.

Sherry D. Brinkley
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
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/830,825	04/23/2004	1652	385	019633-000122US	4	10	1

CONFIRMATION NO. 4333

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

CORRECTED FILING RECEIPT

OC000000015211372

Date Mailed: 02/17/2005

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)

Michel Gilbert, Hull, CANADA;
Warren W. Wakarchuk, Gloucester, CANADA;

Assignment For Published Patent Application

National Research Council of Canada, Ottawa, CANADA

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

Domestic Priority data as claimed by applicant

This application is a CON of 10/303,128 11/21/2002
which is a DIV of 09/816,028 03/21/2001 PAT 6,699,705
which is a CIP of 09/495,406 01/31/2000 PAT 6,503,744
which claims benefit of 60/118,213 02/01/1999

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/830,825

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Beta 1,4-N-acetylgalactosaminyltransferases form C. jejuni

Preliminary Class

435

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

GRANTED

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

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

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

NOT GRANTED

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

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SAN FRANCISCO CA 94111-3834

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Patent No. 7,384,771	:	
Application No. 10/830,825	:	
Filed: April 23, 2004	:	ON PETITION
Issued: June 10, 2008	:	
Attorney Docket No. 019633-000122US	:	

This is a decision on the petition filed October 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RALPH H. DOUGHERTY P.A.
4219 KRONOS PLACE
CHARLOTTE, NC 28210

COPY MAILED

DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Norman G. Bishop, et. al. :
Application No. 10/830,844 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 3728 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed, September 4, 2007, which set a shortened statutory period for reply of one month or thirty days or whichever is longer. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on October 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 3 pages of replacement drawings (Figs. 1-4), (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In addition to receiving a petition, Office records indicate a terminal disclaimer and the required fee of $70 was received on November 18, 2008. Since the above-identified application is not a utility or plant application filed on or before June 8, 1995, a terminal disclaimer is not required. Therefore, a refund will be issued to petitioner's credit card.

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 03/19/09

Patent No. : 7438883 B2
Ser. No. : 10/830,852
Inventor(s) : ITO, KENJI
Issued : 10/21/08
Title : **HIGH-PRESSURE PHASE SILICON NITRIDE HAVING A CUBIC SPINEL STRUCTURE AND THE MANUFACTURING METHOD**
Docket No. : **2933NOF-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 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
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

LMN

Copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
APR 17 2009
PATENT & TRADEMARK OFFICE

In re Application of:

NOF CORPORATION et al.

Patent No.: 7,438,883

Issued: October 21, 2008

Attorney File No.: 2933NOF-1

For: HIGH-PRESSURE PHASE SILICON NITRIDE HAVING A CUBIC SPINEL STRUCTURE AND THE MANUFACTURING METHOD

REQUEST FOR CORRECTION OF ASSIGNEE UNDER 37 C.F.R. § 3.81(B) AND CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKE UNDER 37 C.F.R. § 1.323

Filed By Certified Mail

Attn: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

04/20/2009 NNGUYEN1 00000004 191970 7438883
01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

Dear Sir:

Patentee has identified a typographical error in the Name of Assignee. The typographical error is apparent from a comparison of text on the Issue Fee Transmittal form PTOL-85. Patentee requests that the term SCIENCE be added to the named assignee of NATIONAL INSTITUTE FOR MATERIALS, to read NATIONAL INSTITUTE FOR MATERIALS SCIENCE. The typographical error was an inadvertent mistake made when the Applicant filed the Issue Fee Transmittal. The error is of minor character, which neither adds new matter nor requires reexamination. In view of the above, Patentee respectfully requests the correction be entered.

Accordingly, Patentee requests correction of the Assignee and further requests that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Submitted herewith is a copy of the Notice of Recordation of Assignment Documents, reflecting the reel and fram number where the assignments are recorded and reflecting proof of the date the assignment was submitted for recordation. Also submitted herewith is form PTO SB/44 containing the text of the correction requested for a Certificate of Correction. Please charge payment in the amount of $230.00, which includes the processing fees set forth in 37 C.F.R. §§ 1.17(h) and 1.20(a), to Deposit Account No. 19-1970. In addition, please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: /Patricia Y. Ho/
Patricia Y. Ho
Registration No. 58,972
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: April 13, 2009

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. : 7,438,883

APPLICATION NO.: 10/830,852

ISSUE DATE : 10/21/2008

INVENTOR(S) : Kenji Ito, Katshuiko Takahashi, Toshimori Sekine

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:

(A) NAME OF ASSIGNEE

NOF CORPORATION

NATIONAL INSTITUTE FOR MATERIALS SCIENCE

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Sheridan Ross P.C., 1560 Broadway, Suite 1200, Denver, CO 80202

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.

OIPE
APR 17 2009
PATENT & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

JANUARY 15, 2005

PTAS

102797240A

SHERIDAN ROSS PC
ROBERT D. TRAVER
1560 BROADWAY
SUITE 1200
DENVER, CO 80202-5141

RECEIVED
FEB 01 2005
SHERIDAN, ROSS

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 07/19/2004

REEL/FRAME: 015574/0648
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
ITO, KENJI

DOC DATE: 05/24/2004

ASSIGNOR:
TAKAHASHI, KATSUHIKO

DOC DATE: 05/24/2004

ASSIGNOR:
SEKINE, TOSHIMORI

DOC DATE: 06/03/2004

ASSIGNEE.
NOF CORPORTION
20-3, EBISU 4-CHOME
SHIBUYA-KU, TOKYO, JAPAN 150-0013

ASSIGNEE:
NATIONAL INSTITUTE FOR MATERIALS
SCIENCE
1-2-1, SENGEN
TSUKUBA-SHI, IBARAKI-KEN, JAPAN

305-0047

SERIAL NUMBER: 10830852 FILING DATE: 04/23/2004
PATENT NUMBER: ISSUE DATE:
TITLE: HIGH-PRESSURE PHASE SILICON NITRIDE HAVING A CUBIC SPINEL STRUCTURE AND THE MANUFACTURING METHOD

JEEVON JONES, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

OIPE
APR 17 2009
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

500021306A

FEBRUARY 24, 2005

PTAS

SHERIDAN ROSS PC
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 02/23/2005

REEL/FRAME: 015699/0940
NUMBER OF PAGES: 5

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNEE NAME TO READ \"NOF CORPORATION\" (SEE ORIGINAL COVER SHEET) PREVIOUSLY RECORDED ON REEL 015574 FRAME 0648. ASSIGNOR(S) HEREBY CONFIRMS THE ENTIRE RIGHT, TITLE AND INTEREST OF THE APPLICATION.

ASSIGNOR:
ITO, KENJI

DOC DATE: 05/24/2004

ASSIGNOR:
TAKAHASHI, KATSUHIKO

DOC DATE: 05/24/2004

ASSIGNOR:
SEKINE, TOSHIMORI

DOC DATE: 05/24/2004

ASSIGNEE:
NOF CORPORATION
20-3, EBISU 4-CHOME SHIBUYA-KU
TOKYO, JAPAN 150-0013

015699/0940 PAGE 2

ASSIGNEE:
NATIONAL INSTITUTE FOR MATERIAL
SCIENCE
1-2-1, SENGEN, TSUKUBA-SHI
IBARAKI-KEN, JAPAN 305-0047

SERIAL NUMBER: 10830852 FILING DATE: 04/23/2004
PATENT NUMBER: ISSUE DATE:
TITLE: HIGH-PRESSURE PHASE SILICON NITRIDE HAVING A CUBIC SPINEL STRUCTURE AND THE MANUFACTURING METHOD

JEEVON JONES, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

OIPE USPTO APR 17 2009 PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

500023850A

MARCH 17, 2005

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SHERIDAN ROSS PC
1560 BROADWAY, SUITE 1200
DENVER, CO 80202-5141

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 03/17/2005

REEL/FRAME: 015790/0814
NUMBER OF PAGES: 5

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE EXECUTION DATE OF MR. SEKINE TO 06/03/2004 AND ASSIGNOR NATIONAL INSTITUTE FOR MATERIALS SCIENCE (SEE ORIGINAL COVER SHEET) PREVIOUSLY RECORDED ON REEL 015574 FRAME 0648. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT OF THE ENTIRE RIGHT, TITLE AND INTEREST OF THE APPLICATION.

ASSIGNOR:
ITO, KENJI

DOC DATE: 05/24/2004

ASSIGNOR:
TAKAHASHI, KATSUHIKO

DOC DATE: 05/24/2004

ASSIGNOR:
SEKINE, TOSHIMORI

DOC DATE: 06/03/2004

ASSIGNEE:
NOF CORPORATION
20-3, EBISU 4-CHOME SHIBUYA-KU
TOKYO, JAPAN 150-0013

015790/0814 PAGE 2

ASSIGNEE:
NATIONAL INSTITUTE FOR MATERIALS
SCIENCE
1-2-1, SENGEN, TSUKUBA-SHI
IBARAKI-KEN, JAPAN 305-0047

SERIAL NUMBER: 10830852 FILING DATE: 04/23/2004
PATENT NUMBER: ISSUE DATE:
TITLE: HIGH-PRESSURE PHASE SILICON NITRIDE HAVING A CUBIC SPINEL STRUCTURE AND THE MANUFACTURING METHOD

MARCUS KIRK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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P.O. Box 1450
Alexandria, VA 22313-1450
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CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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In re Patent No. 7,579,334	:	
Mercep et al.	:	DECISION ON REQUEST FOR
Issue Date: August 25, 2009	:	RECONSIDERATION OF
Application No. 10/830,858	:	PATENT TERM ADJUSTMENT
Filed: April 22, 2004	:	AND NOTICE OF INTENT
Attorney Docket No. PLP489USW	:	TO ISSUE CERTIFICATE OF
Title: COMPOUNDS WITH ANTI-INFLAMMATORY ACTIVITY	:	CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-eight (1028) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-seven (1067) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 23, 2007 and ends on May 18, 2008, the day before the RCE was filed, and is 392 days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentees have calculated the overlap period as including 106 days (April 23, 2007 to August 6, 2007) and 40 days (March 26,

2009 to May 4, 2009). However, the 40 days of "A" delay do not overlap with the "B" delay. Therefore, the total overlap is 106 days.

As such, the patent term adjustment is 1067 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand sixty-seven (1067)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery Fries/

Kery 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 : 7,579,334 B2

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Mercep 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 781 days

Delete the phrase "by 781 days" and insert – by 1067 days--

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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

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

In re Application of :
Ian Robert Davies et al :
Application No. 10/830,875 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. CHAP.0109

This is a decision on the petition, filed September 10, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

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OFFICE OF PETITIONS

In re Application of :
Ian Robert Davies et al :
Application No. 10/830,875 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. CHAP.0109

This is a decision on the petition, filed March 21, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 7, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 03/24/08

Patent No: : 7276255 B2
Ser. No. : 10/830,878
Inventor(s) : SELKON, JOE B.
Issued : 10/02/07
Title : **WOUND AND ULCER TREATMENT WITH SUPER-OXIDIZED WATER**
Docket No. : **PURI-004/02US 307801-2006**

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 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.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Joe B. Selkon et al.	:	
Application No. 10/830,878	:	
In re Patent No. 7,276,255	:	DECISION ON PETITION
Filing Date: April 23, 2004	:	PURSUANT TO 37 C.F.R.
Issue Date: October 2, 2007	:	§ 3.81(B)
Attorney Docket Number: PURI-004/02US 307801-2006	:	
Title: WOUND AND ULCER TREATMENT WITH SUPER-OXIDIZED WATER	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b),[1] filed December 19, 2007, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the assignee should be changed to "PuriCore International Limited."

1 See Official Gazette, June 22, 2004.

37 C.F.R. §3.81(b), effective June 25, 2004, reads:

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

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/3/09 Paper No.: —

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/830899 Patent No.: 7496462 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

6/29/09

Mark Halvorson

SPE

1642
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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APR 15 2010

OFFICE OF PETITIONS

In re Patent of Jakobovits et al.	:	DECISION ON APPLICATION
Patent No. 7,494,646	:	FOR RECONSIDERATION OF
Issue Date: February 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/830,899	:	AND NOTICE OF INTENT TO
Filing Date: April 23, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. GNE-0160R3-1A	:	CORRECTION

This is a decision on the petition filed on April 24, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred three (703) 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 seven hundred three (703) 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.

Patentees argue the amount of patent term adjustment should have been increased by 233 days, not 39 days, for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

Although Patentees contend the period of B Delay is 233 days, a review of the record indicates the period of B Delay is 232 days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B Delay, the over three year period began on April 24, 2007, and ended on February 1, 2008, *the day before* the RCE was filed, and is 283 (not 284) days. *See* 35 U.S.C. § 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The number of days

consumed by appellate review is 51 days, which is the number of days beginning on December 12, 2007, the date the Notice of Appeal was filed, and ending on January 31, 2008, the day before the RCE was filed.

In view of the prior discussion, B Delay is 232 (283 - 51) days.

As correctly stated by Appellant, there is no overlap between B Delay and delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay").

The patent term adjustment on the patent should have been increased 232 days, not 39 days, due to B Delay.

The patent term adjustment is 702 days which is the sum of 634 days of A Delay and 232 days of B Delay reduced by 164 days of Applicant delay.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded 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 seven hundred and two (**702**) 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: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,494,646 B2
ISSUE DATE	:	February 24, 2009
INVENTOR(S)	:	Jakobovits et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 509 days.

Delete the phrase "by 509 days" and insert - by 702 days--

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745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Lin et al. :
Application No. 10/830,905 : DECISION ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 91000-2017.1 :

This is a decision on the petition filed July 19, 2004, which is being treated as a request to withdraw the "Notice of Omitted Item(s)in a Nonprovisional Application" mailed on July 1, 2004.

On April 22, 2004, applicants filed the above-identified application. On July 1, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" (Notice), stating that the application had been accorded a filing date of April 22, 2004, and advising applicants that Figures 1A-1D, 3A-3D, and 4 appeared to have been omitted.

In response, on July 19, 2004, applicants filed the present petition, copies of Figures 1A-1D, 3A-3D, and 4, and the $130.00 petition fee. The petition was accompanied by a postcard receipt.

Upon review of the record, Figures 1A-1D, 3A-3D, and 4 have not been located in the official file.

Initially, the Office notes that the date-stamped postcard receipt does not itemize with particularity the total number of sheets of drawings or the Figures submitted. Rather, applicants' postcard receipt listed "Drawings" as received on April 22, 2004.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items 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. The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is

> requested. For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. (Emphasis added).

Because the postcard receipt does not properly identify and itemize the drawings, it does not serve as prima facie evidence that Figures 1A-1D, 3A-3D, and 4 were filed on April 22, 2004.

Accordingly, the petition is dismissed.

It is noted that the application transmittal letter identified this application as a divisional application of prior applications Nos. 09/885,576, filed June 20, 2001, and 60/215,154, filed June 30, 2000, 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).

In view of the incorporation by reference of the prior application, Figures 1A-1D, 3A-3D, and 4 are not new matter if they were part of the disclosure of the prior applications. Applicants may file an amendment to the examiner to include Figures 1A-1D, 3A-3D, and 4 without a petition.

The $130.00 petition fee will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of April 22, 2004, using the application papers filed on that date. Figures 1A-1D, 3A-3D, and 4 will NOT be entered at this time.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED
MAR 02 2010

In re Application of	:	
Samir S. SOLIMAN	:	
Application No. 10/830,906	:	DECISION ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 010427C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2009. Accordingly, the date of abandonment of this application is October 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to 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 the Office of Data Management for processing into a patent.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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David A. Einhorn, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York NY 10020

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
Jung, et al.
Application No. 10/830,914
Filed: April 23, 2004
Attorney Docket No. DE-1564
For: TREATMENT OF CARBON NANO-STRUCTURE USING FLUIDIZATION

: DECISION GRANTING
: PETITION

This is a decision on the petition filed July 16, 2004, requesting that the above-identified application be accorded a filing date of April 23, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on April 23, 2004. On July 1, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on April 23, 2004 because no drawings were present, as is required by 35 USC 113. It is noted that the specification describes a number of drawings.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of April 23, 2004 on the basis that 6 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on April 23, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 23, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 6 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawings were filed on April 23, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, deposit account no. 01-1944 will be credited the $130 petition fee submitted on July 16, 2004.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 23, 2004**, using the copy of the 6 sheets of drawing figures submitted with the instant petition. Office records will be corrected to show that 6 sheets of drawing figures were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712. After September 28, 2004 please call (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2005 / 4-10-07

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: ~~6,865,307~~ Wrong / 6932628
Ser. No. 10/836931

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Paula L. Bradley — 2833

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 8, 2009

TO SPE OF : ART UNIT 2185
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/830940 /7203791

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

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: Do not change Scope of Claims. No new matter have been added

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2185
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Hiroshi ITOH et al. :
Application No. 10/830,961 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. IPO-P1886 :

This is a decision on the petition, filed August 12, 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 timely pay the issue and publication fees on or before June 23, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 23, 2009.

Petitioner asserts that the Notice dated March 23, 2009 was not received.

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

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This application is being referred to the Technology Center AU 2622 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of $1810. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries concerning this decision should be directed to Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

for David A. Bucci
Petitions Examiner
Office of Petitions

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NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of :
Kopp : DECISION ON PETITION
Application No. 10/830,970 :
Filed: April 22, 2004 :
Docket No.: 26149 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 14, 2006.

This application was held abandoned November 11, 2005 for failure to timely submit a proper reply to the non-final Office action mailed August 10, 2005. Notice of Abandonment was mailed February 9, 2006.

Petitioner asserts that a response to the non-final Office action and a petition for extension of time were timely submitted on February 9, 2006.

The original amendment submitted February 9, 2006 have been located in the official application file. According, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of
William s. Treadwell, et al.
Application No. 10/830,978
Filed: April 22, 2004
Attorney Docket No. 2058

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 1, 2006.

The request is **APPROVED**.

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

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with customer No. 24264.

All attorneys/agents associated with the Customer Number 24264 have been withdrawn.

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

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

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 51-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SYTEX, INC.
C/O Barbara Loscalzo
Vice President and General Counsel
Lockheed Martin Information & Technology Services
2339 Route 70 West
Cherry Hill, NJ 080020

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

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Michel Gilbert, et al. :
Application No. 10/830,997 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. 019633-000121US :

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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OCT 1 4 2004

Technology Center 2100

JAMES J DECARLO
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038-4982

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Szeto, et al. :
Application No. 10/831,004 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 694231/0136 :

This is a decision on the "PETITION REQUESTING CORRECTION OF FILING DATE (37 C.F.R. §1.10(c) and 37 C.F.R. §1.10(d))", filed August 25, 2004, to accord the above-identified application a filing date of April 23, 2004.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on April 23, 2004, not April 26, 2004. In support thereof, petitioner has included a copy of the utility application transmittal, bearing Express Mail number EV 053562921 US, as well as a copy of the Express Mail mailing label. The Express Mail mailing label shows a "date-in" date of April 26, 2004. In addition, the Express Mail mailing label contains a USPS stamp dated April 23, 2004. Lastly, petitioner has also included a copy of a printout from the United States Postal Service (USPS) website, indicating that Express Mail number EV 053562921 US was "en route" on April 23, 2004.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that the "date-in" on the Express Mail mailing label was incorrectly entered by the USPS, may petition the Office to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited, provided:

> (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 Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

In view of the corroborating evidence from the USPS (the April 23, 2004 stamp on the Express Mail mailing label, and the USPS website printout), the above-identified application will be accorded a filing date as of the date the application is shown to have been deposited, or April 23, 2004.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **April 23, 2004, not April 26, 2004.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

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TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI OH 45202-3957

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of :
Tadayon, et al. :
Application No. 10/831,018 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No.CDM02-GN001-C1 :
For: METHOD AND APPARATUS FOR PROVIDING A WEB-BASED ACTIVE VIRTUAL FILE SYSTEM

This is a decision on the petition under 37 CFR 1.181, filed June 8, 2007 (certificate of mailing date June 6, 2007), requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed October 31, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on February 1, 2007 for failure to reply to the October 31, 2006 non-final Office action. A Notice of Abandonment was mailed on May 15, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely mailed on certificate of mailing date April 30, 2007 and received in the Office on May 7, 2007. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on May 8, 2007. The three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the May 15, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2145 for consideration of the amendment filed on May 7, 2007(certificate of mailing date April 30, 2007).

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB - 9 2005

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ALSTON & BIRD LLP
Bank Of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

MAILED

FEB - 9 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Ravi Ganesan et al
Application No. 10/831,022
Filed: April 23, 2004
For: DEVICE FOR CONDUCTING SECURE TRANSACTIONS OVER A NETWORK

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

This is in response to the petition filed on April 23, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirement (A) above.

Applicant sets forth that the fee under 37 CFR 1.17(i) has been enclosed in the April 23, 2004 petition. However, no payment of the fee is of record.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

KJD/jwk: 2/2/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MAR 24 2005

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MAR 24 2005

OFFICE OF THE DIRECTOR
TC 3600

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 400
Charlotte, NC 28280-4000

In re application of
Ravi Ganesan et al.
Application No. 10/831,022
Filed: April 23, 2004
For: DEVICE FOR CONDUCTING SECURE TRANSACTIONS OVER A NETWORK

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

This is in response to the petition filed on February 22, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/slb: 03/11/05

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Stringer et al. :
Application No. 10/831,043 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No.:10342.500-US :
Title of Invention: Phospholipase :

This is a decision on the petition filed October 25, 2004, requesting that the above-identified nonprovisional application be accorded a filing date of April 23, 2004 rather than the current filing date of July 30, 2004.

Application papers in the above-identified application were deposited on April 23, 2004. However, on June 21, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1] In response, on August 3, 2004(certificate of mailing July 30, 2004) petitioner submitted an oath and declaration and a copy of the omitted figure. Applicant indicated that the drawings were not new matter and requested a filing date April 23, 2004. However, the Office changed the filing date to July 30, 2004.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

Since the application should have been accorded a filing date and

[1] See 35 U.S.C. 111(a)(4)

a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of April 23, 2004 without any drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawing may be submitted.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **April 23, 2004**, without any drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/05

2 Serial/Patent # 10/831,043

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		10/15/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [✓] Credit Deposit A/C #:

9 50--1701

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [✓] No Fee Due (Explanation):

Pet. granted

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: CHARLENE GRUNER TITLE: atty

SIGNATURE: C. Gruner PHONE: X-3215

OFFICE: Pet Atty

****

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APPROVED: Alicia Kelly DATE: 2/3/05

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FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Zongtao Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7625542	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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JUL 24 2006

OFFICE OF PETITIONS

Kenneth D. Sibley
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

In re Application of :
Klaenhammer, et. al. :
Application No. 10/831,070 :
Filed: April 23, 2004 :
Attorney Docket No. 5051-690 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed by facsimile transmission on August 1, 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 No. 20792 have been revoked by the assignee of the patent application, on August 23, 2005. 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: ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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APR 13 2005

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of
Ravi Ganesan et al
Application No. 10/831,080
Filed: April 23, 2004
For: TECHNIQUE FOR CONDUCTING SECURE TRANSACTIONS OVER A NETWORK

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

This is in response to the petition filed on April 23, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

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

The petition fails to adequately meet requirement (B) above.

With regard to condition (B) the petition provides the statement that applicant will elect without Traverse claims 1-14. This statement is presumptuous as to the claims being restricted between two groups only. While this may be the case the situation can arise wherein additional groups or species would limit the number of claims to less than agreed upon by applicant within his stated election without Traverse. To met the requirement applicant should provide a generic statement that if a restriction/election is made applicant will elect without traverse.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 3/30/05

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MAY 25 2005

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of Ravi Ganesan et al. Application No. 10/831,080 Filed: April 23, 2004 For: TECHNIQUE FOR CONDUCTING SECURE TRANSACTIONS OVER A NETWORK	: : : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on April 27, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The original petition filed on April 23, 2004 was dismissed on April 13, 2005 for failing to satisfy requirement (B) avove. The renewed petition satisfies the above deficiencies.

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

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

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

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

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

KJD/pav: 05/09/05

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 6/2/2009
Patent No. : 7,398,212 B2
Serial No. : 10/831,082
Inventor(s) : Yacoub
Issue Date : July 8, 2008
Title : **SYSTEM AND METHOD FOR QUALITY OF SERVICE MANAGEMENT WITHIN A CALL HANDLING SYSTEM**
Doc./File No. : **200313928-1**

Re: Certificate of Correction (Reconsideration)

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

Respecting the alleged errors in your request, inspection of the file of the application for the patent reveals that column 8, line 35-37, claim 14, in the patent, is/are printed in accordance with the final amendment of 1/17/08 in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

A certificate of correction will issue to correct the remaining errors noted in your request.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch accompanied by the appropriate fee which is presently $100.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

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

ecw

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Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington VA 22215

MAIL

JUN 30 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
BROWN, BETTY J., et al.
Application No. 10/831,109
Filed: April 26, 2004
For: **VEHICLE SECURITY INSPECTION SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed April 26, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Francisco Zuniga	:	
Application No.: 10/831112	:	DECISION ON
Filing or 371(c) Date: 04/26/2004	:	PETITION
Attorney Docket Number: 24879.00	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed February 8, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final office action, mailed December 20, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed an Amendment in response to the Office action on April 4, 2006; however, the amendments failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed April 25, 2006. No complete and proper reply having been received, the application became abandoned on March 21, 2006. A Notice of Abandonment was mailed September 22, 2006.

Applicant files the instant petition and RCE, and submission in the form of an amendment. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 3612 for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12/9/08

In re application of :
Takayuki Fujiwara et al. :
Serial No. 10/831,120 : DECISION ON
Filed: April 26, 2004 : PETITION
For: Fluid Mixing Apparatus And Fluid Mixing System :

This is a decision on the PETITION FOR A NEW NOTICE OF PANEL DECISION restarting the period for response, on the grounds that it was never received by mail and was only just recently discovered in Private PAIR. Petitioner asserts that the Decision dated July 14, 2008 was not received.

Petitioner has provided a copy of the docket record where the non-received Panel Decision would have been entered had it been received and docketed.

The petition is **GRANTED**.

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

David P. Emery
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2100 PENNSYLVANIA AVENUE, N.W.
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2100 Pennsylvania Avenue, NW
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FAX

Date	January 12, 2009	
To	Examiner Krishnan S. Menon	
Of	USPTO	
Fax	571-273-1143	
From	David P. Emery (55,154) 202-663-7956	
Subject	Copy of Decision on Petition	
Our Ref	Q80788	US. App. No. 10/831,120
Pages (including cover sheet)	2	

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Via Meravigli, 16
MILANO 20123
ITALY

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OFFICE OF PETITIONS

In re Application of :
Lonati et al. : DECISION ON PETITION
Application No. 10/831,149 :
Filed: April 26, 2004 :
Attorney Docket No. 38214/GM/1P :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed July 12, 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned by operation of law for failure to timely pay the required issue fee (and publication fee) within the statutory period of three (3) months from the mailing date, December 30, 2004, of the Notice of Allowance and Fee Due. No extensions of time are permitted for transmitting issue fees (or publication fees). Accordingly, the above-identified application became abandoned on March 31, 2005. A courtesy Notice of Abandonment was mailed on May 3, 2005.

The issue fee and publication fee were late received in the Office on May 10, 2005. Petitioner maintains that the late payment of the issue fee was unavoidable. Petitioner asserts that the Fee(s) Transmittal was originally sent to the Office Customer Window at the address: 2011 South Clark Place, Customer Window, Mail Stop, Crystal Plaza Two, Lobby, Room 1B03, ARLINGTON, VA 22202, U.S.A." as evidenced by their DHL mailing receipt and as done for all issue fee payments of his dockets for the past several years, with no resulting problems of acceptance of the relevant issue fee payment. Further, petitioner states that this DHL delivery was signed for by a C. Schorder of Alexandria, Virginia on March 9, 2005.

STATUTES, RULES AND REGULATIONS

35 U.S.C. 151, provides that the Director may accept the delayed payment of an Issue Fee if the delay in payment is shown to the satisfaction of the Director to have been unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 C.F.R. § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d). Requirement (3) is at issue in this case.

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). 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 has failed to meet his or her burden of establishing that the delay in filing a reply was "unavoidable." Petitioner's assertion and evidence of timely filing of the Issue Fee transmittal has been considered. Preliminary, it is stated that the application file is the Official record of all of the papers filed in an application. As an Issue Fee transmittal delivered to the Office on March 9, 2005 is not among the items present in the application file, it is not considered received in the Office on March 9, 2005. Petitioner has not provided persuasive evidence (e.g. a date-stamped and itemized postcard) of receipt in the Office of the response.

Moreover, the failure of receipt of the Issue Fee transmittal is not found to be unavoidable within the meaning of § 1.137(a). The Issue Fee, as stated by applicants to have been addressed, was not properly addressed. First, by Notice dated June 1, 2004 and entitled *New Address for Customer Window Which is Used for Patent Mail Not Delivered by the USPS* (1283 OG 23), applicants were advised of a new address for the Customer Window. The Notice advised applicants that effective June 5, 2004, patent mail delivered by hand or delivery services, other than the USPS, must include the street address of "220 20th Street S." Petitioner did not use this street address.

Further, the June 1, 2004 Notice warned applicants that the address was temporary because in August or September 2004, the

Office (including the Customer Window) were moving to the Alexandria campus. Consistent with the relocation of the Customer Window, by Notice dated January 25, 2005 and entitled *MAILING AND HAND CARRY ADDRESSES FOR MAIL TO THE UNITED STATES PATENT AND TRADEMARK OFFICE MAIL DIRECTED TO THE COMMISSIONER FOR PATENTS* (1290 OG 1251), applicants were advised "to please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

> United States Patent and Trademark Office
> Customer Service Window
> Randolph Building
> 401 Dulany Street
> Alexandria, VA 22314"

Petitioner did not use the Dulany Street address.

Petitioner's evidence reveals that any Issue Fee transmittal sent by applicants was sent to the wrong address. The address declared to have been used by applicants was one in effect, prior to the Office's issuance of 2 NOTICES[1], changing the address of the Customer Window. These circumstances do not constitute "unavoidable" delay within the meaning of § 1.137(a).

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from 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).

---

[1] Both Notices are available at www.uspto.gov/web/offices/pac/dapp/ogsheet.html (last viewed September 8, 2005).

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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Lonati et al.	:	DECISION ON PETITION
Application No. 10/831,149	:	
Filed: April 26, 2004	:	
Attorney Docket No. 38214/GM/1P	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 30, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned effective March 31, 2005 for failure to timely pay the required issue fee (and publication fee) within the statutory period of three (3) months from the mailing date, December 30, 2004, of the Notice of Allowance and Fee Due. A courtesy Notice of Abandonment was mailed on May 3, 2005.

By decision mailed September 8, 2005, the initial petition for revival based on unavoidable delay filed July 12, 2005 was dismissed. Petitioner did not make an adequate showing of unavoidable delay within the meaning of 1.137(a).

On instant renewed petition, applicants requested revival based on the lesser standard of unintentional delay. The petition included the petition fee under 1.17(m) and the required statement of unintentional delay. The required replies, the

issue fee and publication fee, were previously received in the Office on May 10, 2005.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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MAR 2 2 2006

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

In re Application of
Gisle Bjontegaard
Application No. 10/831,158
Filed: April 26, 2004
For: **EARLY DETECTION OF ZEROS IN THE TRANSFORM DOMAIN**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed January 4, 2006, 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

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BAKER & HOSTETLER LLP
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1050 Connecticut Avenue, N.W.
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Peter Terence Roux and Monika Dongare :
Application No. 10/831,162 :
Filed: April 26, 2004 :
Attorney Docket No. 87278.2300 :
Title: CONTROL OF PROCESSES IN A PROCESSING SYSTEM :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed February 1, 2005.

On April 26, 2004, the application was deposited, identifying Peter Terence Roux and Monika Dongare as joint inventors. On July 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the petition fee, the surcharge, and substitute drawings, and a five-month extension of time to make timely this response. Petitioner has also submitted a declaration which has been executed by Ms. Dongare.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

Petitioner has met requirements (1) – (2) and (5) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of non-signing inventor Roux[2].

Regarding the fourth requirement above, Petitioner has asserted that the non-signing inventor "refuses to join in an application for patent or cannot be found or reached[3]." Petitioner cannot have it both ways, in that one cannot allege the address of the non-signing inventor is unknown, and then assert a refusal to sign. He can either claim the person cannot be located, whereby he does not have to establish the inventor received the application papers, or he can allege a refusal to sign. If he is alleging a refusal to sign, he has to establish that a *bona fide* attempt was made to present a complete copy of the application papers to each non-signing inventor[4] (which would require a known address). Petitioner has not established a refusal, nor has petitioner established that despite diligent effort, the inventor cannot be reached or located.

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

The application file will be retained in the Office of Petitions for two (2) months.

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

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

2 See MPEP 409.03(e).
3 Petition, page 1.
4 See MPEP 409.03(d).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Fredrik Hansson	: DECISION ON REQUEST FOR
Patent Number	: 7610675	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **648** 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

SUGHRUE MION ZINN MacPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

COPY MAILED

FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Atsushi Kobayashi et al :
Application No. 10/831,213 : DECISION GRANTING PETITION
Filed: April 26, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q80526 :

This is a decision on the petition, filed February 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 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 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\831213.wpd

---

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

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SEP 21 2004

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON MA 02110

In re Application of:	:
Buzby et al.	:
Serial No.: 10/831,214	: PETITION TO MAKE SPECIAL
Filed: April 23, 2004	:
Attorney Docket No.: HEL-001	:

This is in response to applicants' petition filed August 20, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 50-3081, as directed. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Henrik John Anderson :
Application No. 10/831,220 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 030307-0283 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the concurrently filed amendment and the Application Data Sheet filed on May 15, 2006.

The petition is **GRANTED**.

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

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

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

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

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

However, the amendment is not proper and will not be entered because 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 because 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-filed application can not 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).

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

Receipt of the $1,370 petition fee is acknowledged.

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1762 for consideration by the examiner of applicant's ADS to claim benefit of priority under 35 U.S.C. §120 to the prior-filed application. However, the examiner will not enter the amendment containing the improper incorporation by reference statement.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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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
10/831,220	04/26/2004	1762	437	030307-0283	6	23	1

CONFIRMATION NO. 9535

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

CORRECTED FILING RECEIPT

OC000000022208981

OC000000022208981

Date Mailed: 01/29/2007

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)

Henrik John Andersen, Bronderslev, DENMARK;

Power of Attorney: The patent practitioners associated with Customer Number **22428**.

Domestic Priority data as claimed by applicant

Foreign Applications

DENMARK PA 2001 01576 10/26/2001

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 US10/831,220

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method of flexible process planning for surface processes

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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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AUG 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, Kia	:	
Application No. 10/831,236	:	DECISION ON PETITION
Filed: April 26, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BAL89US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(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.

However, since the instant application matured into Patent No. 7,077,515 on July 18, 2006, a petition under 37 CFR 1.78(a)(3), ***along with submission of a Certificate of Correction***, is the appropriate avenue of relief to accept a late claim for the benefit of priority to prior-filed nonprovisional application after issuance of the application into a patent.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a Certificate of Correction, 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 Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

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APR 28 2009

OFFICE OF PETITIONS

In re Application of
A.P. Michael Smith
Application No. 10/831,246
Filed: April 23, 2004
Attorney Docket No. RCP-002

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed October 10, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on March 26, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Seceion. A copy of this decision should accompany the request.

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

This application is being referred to Technology Center AU 2163 for appropriate action by the Examiner in the normal course of business on the reply received March 26, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : March 14, 2007

Patent No. :7,120,651
Inventor :Roger J. Bamford et al.
Patent Issued :October 10, 2006
Title : ONE-PHASE COMMIT IN A SHARED-NOTHING DATABASE SYSTEM

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

Accordingly, the inventors address as printed is considered to be in accordance with the Declaration or Oath and in accordance with the present style for printing. In assigned patents, the city and U.S. state, or city and foreign country (residence) is printed.

Further, Related U.S. Application Data is in accordance with the record of this office as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in these matters is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch. Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308=9380 ext., 123.

Cecelia B. Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Hickman, Palermo, Truong & Becker LLP
2055 Gatweay Place, Suite 550
San Jose, CA 95110

CBN/arg

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DEC 21 2006

OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of	:	
Younglok Kim et al	:	
Application No. 10/831,254	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. I-2-0225.3US	:	

This is a decision on the petition, filed December 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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Paper No. None

Steven Rocci
Woodcock Washburn LLP
One Liberty Place
46th Floor
Philadelphia, PA 19103

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
DoRon B. Motter et al. :
Application No. 10/831,264 : DECISION ON PETITION
Filed: April 23, 2004 : UNDER 37 C.F.R. §1.10(D)
Attorney Docket No. 307556-01 :
Title: Using Constrained :
Optimization in Curve Editing :

Background

This is a decision on the petition under 37 C.F.R. §1.10(d), submitted on June 1, 2004, requesting that the application be accorded a filing date of April 23, 2004.

Shortly after April 23, 2004, the above-identified application was received in the Office. The Office of Initial Patent Examination mailed petitioner's filing receipt, which indicated that the application had been accorded a filing date of April 22, 2004.

In response, on June 1, 2004, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EL999282114US [1]. Applicants request that the application be accorded a filing date of April 23, 2004.

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Petitioner has alleged that the application was deposited on April 23, 2004, and the Patent Office has incorrectly assigned a filing date of April 22, 2004 to the instant application, due to the USPS incorrectly writing "04-22-04" in the "date-in" field of the Express Mail label.

The relevant sections of the CFR and MPEP

37 C.F.R. § 1.10: Filing of correspondence by "Express Mail."

(b) 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 paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(d) 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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

MPEP §513: Deposit as Express Mail with U.S. Postal Service sets forth, in part:

37 CFR 1.10(b) further provides that 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, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence 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. On petition,

the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk.

A paper or fee placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day will be considered to be deposited as of the date of receipt ("date-in") indicated on the "Express Mail" mailing label by the Postal Service "Express Mail" acceptance clerk. 37 CFR 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an "Express Mail" drop box prior to last scheduled pick up of the day, that is, the time clearly marked on the "Express Mail" drop box indicating when the box will be cleared for the last time on the date of deposit. 37 CFR 1.10(d) sets forth the procedures to be followed to be entitled to such a correction.

Parties who do 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. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) or (e). Evidence that came into being after deposit and within one 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.

Analysis

Regarding the Express Mail label, it is noted that the label contains a "date-in" of April 22, 2004. A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) sets forth that the package was received on April 23, 2004. A print-out of this report has been enclosed.

Petitioner has further included a copy of the receipt received after paying for this express mailing. The receipt contains the express mail number, along with the date "04/23/2004."

Accordingly, the petition is **GRANTED**. The application is entitled to a filing date of April 23, 2004.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 23, 2004, as well as the mailing of a corrected filing receipt.

Any inquiries related to 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

Encl. Copy of the USPS website tracking results

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OFFICE OF PETITIONS

In re Application :
Yao, et al. :
Application No. 10/831,265 : PATENT TERM ADJUSTMENT
Filed: April 23, 2004 :
Dkt. No.: 20443-003001 / :
INCY0003-1 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 4, 2008. The application was timely filed prior to submission of the issue fee payment.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 23, 2008. Applicants argue that the application is entitled to an additional adjustment of 239 days pursuant to 35 USC 154(b)(1)(B).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

Receipt is hereby acknowledged of the required application fee of $200.00.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Wenqing Yao, et al.
Application No. 10/831,265
Filed: April 23, 2004
Attorney Docket No. 20443-003001/
INCY0003-1

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 31, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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In re Application :
Yao, al. :
Application No. 10/831,265 : PATENT TERM ADJUSTMENT
Filed: April 23, 2004 :
Dkt. No.: 20443-003001 / INCY0003-1 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 18, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 834 days, not 595 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as

to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The receipt is acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Ueda, et al. :
Application No. 10/831,277 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 118731.01 :

This is a decision on the petition under 37 CFR 1.53, filed October 15, 2004, requesting that the above-identified application be accorded a filing date of April 26, 2004, including page 43 of the specification.

The application was submitted on April 26, 2004. However, on July 14, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts." However, the July 14, 2004 Notice was sent in error and withdrawn on October 4, 2004. Also on October 4, 2004, OIPE mailed a "Notice of Omitted Items in a Nonprovisional Application," that stated the application had been accorded a filing date, and that page 43 of the specification appears to have been omitted.

In response, on October 15, 2004, the instant petition a copy of page 43 of the specification were filed. The petition was accompanied by a copy of a postcard receipt that acknowledges receipt of "173 pp. spec," however, this postcard refers to a substitute specification submitted on September 14, 2004 and not to the original specification that was deposited on April 26, 2004.

A copy of a postcard receipt that would indicate receipt of page 43 of the specification on April 26, 2004 is required and has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of page 43 of the specification on April 26, 2004, then the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If

petitioner has a postcard receipt date stamped by the Office that indicates receipt of page 43 of the specification on April 26, 2004, then the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

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

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

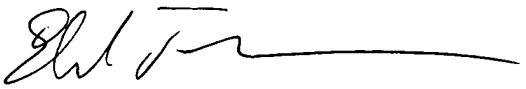
By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

The application is shall retain the April 26, 2004 filing date, consisting of only the application papers filed on that date. Petitioner may also choose to accept the later filing date of October 26, 2004, the date of receipt of the omitted item. If petitioner wishes to accept the later filing date, petitioner should submit a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the omitted item and a petition under 27 CFR 1.182 (with the $130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date.

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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MAR 16 2005

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In re Application of :
Ueda, et al. :
Application No. 10/831,277 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 118731.01 :

This is a decision on the renewed petition under 37 CFR 1.53, filed February 22, 2005, requesting that the above-identified application be accorded a filing date of April 26, 2004, including page 43 of the specification.

The application was filed on April 26, 2004. However, on October 4, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 43 of the specification appears to have been omitted.

In response, on October 15, 2004, a petition and a copy of page 43 of the specification were submitted. The instant renewed petition was submitted on February 22, 2005. The instant petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "173 pp. spec/68 clms/abstr." on April 26, 2004. A review of the application file indicates the presence of one hundred seventy-two (172) pages of specification, claims and abstract. It is assumed that page 43 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted October 15, 2004, will be refunded to deposit account no. 15-0461.

This application will be returned to OIPE for further processing with a filing date of April 26, 2004, using the copy of page 43 of the specification, supplied on October 15, 2004.

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

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

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DEC - 1 2005

John W. Harbst
1180 Litchfield Lane
Bartlettt, Illinois 60103

In re Application of:	:	**DECISION ON PETITION**
David J. Hansen, Jr.	:	**TO ACCEPT COLOR**
Application No. 10/831278	:	**PHOTOGRAPHS**
Filed: April 23, 2004	:	
Confirmation No. 1322	:	

This is in response to the petition first filed October 31, 2005 (unsigned) and then again November 7, 2005 (Certificate of Mailing November 3, 2005) under 37 CFR 1.84(b)(2), requesting the acceptance of color photographs.

The Petition is granted.

The Petition meets all the requirements of 37 CFR 1.84(b)(2) and the color photographs were requested by the examiner for complete illustration of the invention.

Lesley D. Morris
Supervisory Patent Examiner
Technology Center 3600
Art Unit 3611
(571) 272-3651

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In re Application of :
Benjamin Brooks Cutter et al. :
Application No. 10/831,280 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket Number: MSFT-3873/308220.1 :

This is a decision on the petition filed May 27, 2004, requesting that the above-identified application be accorded a filing date of April 23, 2004, instead of the presently accorded filing date of April 22, 2004.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on April 23, 2004, pursuant to the requirements of 37 CFR 1.10.

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is April 22, 2004, but argue that the application was actually deposited with the United States Postal Service (USPS) on April 23, 2004. In support, petitioners have provided a copy of Express Mail Customer label No. EL999296612US (the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file) showing a "date-in" of April 22, 2004 but a April 23, 2004 USPS postmark and a copy of the register receipt with a postage date of April 23, 2004, corroborating that an item bearing Express Mail Label No. EL999296612US was accepted by the USPS on April 23, 2004. In view thereof, it is concluded that the correct date of deposit in Express Mail service is April 23, 2004. Therefore, the application is entitled to a filing date of April 23, 2004.

The petition is **GRANTED**. In view thereof, no petition fee is due. Petitioner's deposit account no. 23-3050 has been credited in the amount of $130.00 for the petition fees paid.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of April 23, 2004, not April 22, 2004, and for issuance of a corrected filing receipt.

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

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In re Application of :
Evans, et al. :
Application No. 10/831,281 : DECISION ON PETITION
Filed: 23 April, 2004 :
Attorney Docket No.: MSFT-3518 :

This is a decision on the renewed petition under 37 C.F.R. §1.10(d)), filed on 27 May, 2004, and seeking for the above-identified application a filing date of 23 April, 2004, instead of the presently accorded filing date of 22 April, 2004.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The starting point of the discussion is the controlling law, *i.e.*, the regulations at 37 C.F.R. §1.10(d) provide in pertinent part:

* * *

> (d) 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 Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

* * *

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. (Emphasis supplied.)[1]

* * *

The record reflects that:

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[1] The regulations at 37 C.F.R. §1.10 provide, in pertinent part:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) 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).

* * *

(b) 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 paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

* * *

(d) 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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

* * *

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question. (Emphasis supplied.) [48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

- while the instant application was received and given by the Office a filing date of22 April, 2004, after the US Postal Service (USPS) placed that date as the hand-written "date in," of its acceptance of the package bearing USPS Express Mail Label No. EL999296626US, the petition contends that the instant application submitted with that USPS Express Mail Label Number was in fact deposited with the USPS on 23 April, 2004;

- the petition further recites that attachments/enclosures (including, *inter alia*, copies of:

> –the USPS Express Mail Label No. EL999296626US–which also bears a date stamp on the right side of the label which stamp evidences "APR 23 2004 –PHILA PA PENN CENTER USPS"; and
>
> –the receipt tape evidencing several items paid for and one of those items listed is USPS Express Mail Label No. EL999296626US and bearing a receipt date by the USPS of "04/23/2004" at "PENN CENTER, PHILADELPHIA, Pennsylvania 191029997."

Moreover, a review of the file also indicates that USPS Express Mail Label No. EL999296626US appears on the Transmittal of the instant application.

Finally, a request by the Office of the USPS Track & Confirm data from the USPS website provides the following information as to receipt by USPS of the package bearing USPS Express Mail Label No. EL999296626US: "ACCEPTANCE PHILADELPHIA PA 19102 04/23/04 4:47pm." (A copy of this document, received from USPS via Email, is being submitted to the record.)

Accordingly, the petition hereby is **granted**.

The petition fee is not waived because the error was not that of the Office, and was charged as authorized.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 23 April, 2004, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 23 April, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/831,281	04/23/2004	2135	770	MSFT-3518	5	6	1

CONFIRMATION NO. 1330

CORRECTED FILING RECEIPT

41505
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

OC000000016657832

Date Mailed: 08/01/2005

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)

Brian P. Evans, Redmond, WA;
Clifford P. Strom, Sammamish, WA;
Michael Jay Parks, Kirkland, WA;

Assignment For Published Patent Application

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Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/831,281

Projected Publication Date: 11/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Rendering digital content in a content protection system according to a plurality of chained digital licenses

Preliminary Class

713

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.

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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Mercedes K. Meyer
DRINKER BIDDLE & REATH LLP
1500 K STREET, N.W.
WASHINGTON DC 20005

In re Application of	:
ZENG et al	:
Serial No.: 10/831,286	:Decision on Petition
Filed : April 26, 2004	:
Attorney Docket No.: 47039-0002-00-US	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 37 C.F. R. 1.181 filed on March 8, 2007 requesting withdrawal of the restriction requirement.

BACKGROUND

On February 16, 2006, the examiner mailed a restriction requirement in which the original claims 1-28 were divided into 4 groups. Part of this restriction requirement required selection of a specific sequence or combination of sequences for examination.

On March 16, 2006, Applicants elected Group I (Claims 1-7 and 11-21) without traverse and SEQ ID NO: 3454 and 34206 with traverse. Applicants acknowledge they were required to elect a specific set of distinguishing moieties from Table 20 and 21 for prosecution of claims 14-21 o f Group I.

On May 5, 2006 the examiner considered the traversal, made the restriction requirement FINAL and mailed to applicants a non-final Office action, in which Group I (Claims 1-7, 11-21) and SEQ ID NO: 3454 and 34206 were searched and examined on the merits. Claims 1-7, 11-15, 29-33, 35-37 were rejected under 35 USC 112, second paragraph as indefinite. Claims 1-7, 11-21, 29-37 were rejected under 35 USC 103(a).

On September 5, 2006, applicants and the examiner held an interview.

On October 5, 2006, applicants filed a response to the outstanding Office action.

On November 30, 2006, the examiner mailed a subsequent non-final Office action, in which claims 1, 3-7, 11-14, 29-33, 35-37 were rejected under 35 USC 112 first paragraph (Written Description); Claim 1, 3-7, 11-21, 39-37 were rejected under 35 USC 112, second for failing to particularly point out and distinctly claim the subject matter of the invention; and Claims 1, 3-7, 11-21, 29-37 were rejected under 35 USC 103(a).

On March 8, 2006, applicants filed this petition to request that the Office withdraw the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

A) Consideration of Combinations of Sequences.

The petition seeks reconsideration of the restriction limiting the claims to a set of one oligonucleotide from each of two claimed groups of oligonucleotides: a genus-specific group and a species-specific group.

The restriction requirement specifically states "Additionally, group 1 is subject to further restriction. The applicant is required to elect on or a specific set of distinguishing moieties from Table 20 and 21 for the prosecution of claims 14-21 of group 1. Generic claims of group 1, such as claim 11, will not be limited by this election." Applicants specifically select a set of sequences, namely SEQ ID NO: 3454 and 34206. Now, applicants appear to be arguing they were not given the opportunity to select a combination of species-specific oligonucleotides and genus specific oligonucleotides.

MPEP 803.04 provides specific guidance to the office on how to handle claims drawn to combinations of sequences. Specifically,

> "Applications containing only composition claims reciting different combinations of individual nucleotide sequences, such as set forth in example (C), will be subject to a restriction requirement. Applicants will be required to select one combination for examination."

Here, the original restriction requirement appeared to follow the guidance provided in the MPEP to allow applicants to select a specific set of distinguishing moieties. The response to the restriction requirement further affirms this.

B) Consideration of Linking Claims

Applicants correctly state that the Office must consider linking claims.

MPEP 809 provides direction for linking claims. MPEP 809 specifically states "[l]inking claims and the inventions they link together are usually either all directed to products or all directed to

processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions)."

Claim 1 is a linking claim because it is not specific for any particular set of moieties (SEQ ID Nos).

1. **(Currently Amended) A plurality of 16S polynucleotides immobilized to a solid support, wherein the plurality of 16S polynucleotides or polynucleotides complementary to ~~antisense forms of~~ 16S polynucleotides are subsequences of 16S rDNA or complementary polynucleotides thereto, and each 16S polynucleotide or polynucleotide complementary to ~~antisense form of~~ said 16S polynucleotides individually comprises a distinguishing moiety, which differentiate between microorganisms by genus[[, group,]] and/or species of *Streptococcus*~~, strain, and/or isolate~~, and wherein said polynucleotides are 15 to 30 nucleotides long.**

Claim 11 is also a linking claim. In this application, the examiner has properly treated the linking claims 1 and 11. The restriction requirement explicitly indicates that "generic claims of group I will not be limited by the election of a combination of sequences." Moreover, the generic linking claims 1 and 11 were examined on their merits in the first and second non-final actions and were rejected under 35 USC 112/1st Written Description, 35 USC 112/2nd and 35 USC 103(a). At this point, the linking claims are not in condition for allowance. Any request for rejoinder among linked species or linked inventions would be premature until all claims directed to the elected invention, including all linking claims are in condition for allowance.

The MPEP further provides that

> "Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 **Claims that require all the limitations of an allowable linking claim** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.
>
> Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

While the petition cites case law and the Presentation at the Biotechnology/Chemical/Pharmaceutical Customer Partnership Meeting in March 2007, in this instance, the examiner has properly treated the linking claims by examining them on their merits in both non-final Office actions.

C) "Unity of Invention" and the Harnisch Test

As indicated above in MPEP 803.02, the Office must additionally show that the inventions lack unity of invention, which requires the Office to establish that either there is a lack of common utility or a lack of a substantial structural structure essential to that common utility. Without these two requirements for unity of invention, i.e., common utility and substantial structural feature essential to that utility, there is nothing preventing an applicant from lumping into a single method of producing light claim inventions as diverse as a flashlight, a carbon arc spotlight and a laser--all because they have the common utility of producing light. Clearly, a substantial structural feature in combination with a common utility are essential in defining any meaningful unity of invention. In the instant application claim 30, for example, lacks both a substantial structural feature and a common utility with regard to the method of detection using a molecule comprising two or more of SEQ ID Nos 1-48,664.

30. (Currently Amended) The plurality of 16S polynucleotides of claim 1, wherein the plurality comprises a combination of two or more of SEQ ID NOS: 1-48664 ~~1-48788~~ or polynucleotides complementary thereto, ~~antisense forms of SEQ ID NOS: 1-48788,~~ and wherein said polynucleotide is an ~~oligomers~~ oligomer of ~~11 to 45~~ 15 to 30 nucleotides.

Applicants argue that there is a substantial chemical structural feature among the SEQ ID Nos A comparison of SEQ ID Nos. 7, 5, 3, and 1, for example, shows no indication of any substantial structural feature or similarity shared among all the alternatives. The sequences are specific for different organisms and show no regions of similarity with each other.

ORGANISM: Pediococcus parvulus	SEQUENCE: 7	tgaattagaggtgcttgcaccgaagatgat
ORGANISM: Campylobacter rectus	SEQUENCE:5	gagagatgatcagtcacact
ORGANISM: Pediococcus dextrinicus	SEQUENCE:3	ccaactgatttaaaaataaacgagtggcgg
ORGANISM: Prevotella intermedia	SEQUENCE: 1	cctaatacccgatgttgtccacatatggca

MPEP 2175.03(b) states in part that:

> ... when the Markush group occurs in a Claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property.

For process and combination claims, a proper Markush group may include members which share a common property which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property. It is not clear from the alignment of SEQ ID NOs. 1, 3, 5 and 7, for example, what property there is, if any, that they share which is mainly responsible for their function in the claimed relationship.

Applicants argue that the oligonucleotides permit rapid differentiation between microbial genera and species, thereby having a common information function. The petition argues that the oligonucleotides share a common chemical molecule (nucleic acid) from a common source (microbial 16S DNA). This argument has been fully considered but is not deemed persuasive. The fact that the oligonucleotides permit differentiation between different microbial genera and species is not a common function for each of the oligonucleotides. As discussed above, SEQ ID NO: 1 is for Prevotella intermedia. SEQ ID NO: 5 is for Campylobacter rectus. SEQ ID NO: 1 does not appear to function in the detection of Campylobacter rectus. Alternatively SEQ ID NO: 5 does not appear to function in the detection of Prevotella intermedia. The functionality (the hybridization to a complementary sequence) and specificity are provided by the sequence order of the four bases forming said backbone (ACTG). This is the property primarily responsible for their function in the claimed process of detecting different microbial genera and species. The methods of using each probe or each set of probes cannot be substituted one for the other to obtain the same effect.

As pointed out above in SEQ ID NOs. 1, 3, 5, and 7, there is no apparent substantial structural feature, which is clear from their very nature or the prior art that is mainly responsible for their function in the claimed relationship in the sequences around which all of the SEQ ID NOs are grouped.

For these reasons, the arguments about a common utility are not persuasive. Consequently, the proper application of In re Weber does not resolve the instant lack of unity--having a property in common mainly responsible for the function in the claimed relationship.

While the petition asserts that "the oligonucleotides Petitioners were forced to elect are directed to the genus Streptococcus and the species, S. agalactiae. However, these sequences, if utilized alone, would not allow the skilled artisan to discriminate between other microbes, let alone between species of Streptococcus." The petition further argues that the claims turn not on a single oligonucleotide, but rather the information provided by the plurality of 16S oligonucleotides. Finally, the petition argues that to limit the claims to the elected pair of oligonucleotides is not helpful for the ultimate purpose of discriminating between microbial

genera and species. This argument has been reviewed but is not persuasive. Petitioners were given the opportunity to select "a specific set of distinguishing moieties from Table 20 and 21 for the prosecution of claims 14-21 of group 1." Applicants elected two sequences. Thus applicants elected a set. If petitioners failed to select the set now wishing to be pursued, this is an error on the part of the election and not a fault found in the restriction requirement.
In the event that the generic claims, which do not specifically require any SEQ ID NO:s, currently Claims 1 and 11, become allowable, any claims which depend from or otherwise include all the limitations of the allowable claims would be considered for rejoinder, per MPEP 821.04(a). e. Moreover, if all the claims are limited to the elected set of sequences, SEQ ID NO: 3454 and 34206 and become allowable, applicants will be entitled to have rejoined any set of sequences which require elected SEQ ID NO: 3454 and 34206 and which depend from or otherwise include all the limitations of the allowable claim.

D) Typographical Error and Confusion Created by the Office

Petitioner points out that a typographical error exists in the restriction requirement. The typographical error appears limited to if applicant chose to select one distinguishing moiety from Tables 20 and 21 for the prosecution of Claims 14-21 of Group 1. Applicants selected a set of moieties (SEQ ID Nos) rather than one. Applicant is now requesting relief to select a new set of moieties (SEQ ID Nos). Thus, the typographical error does not appear to be important to the instant petition decision. Moreover, MPEP 819 states:

> The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter.

In this application, applicants have received two non-final Office actions on the merits for their elected invention. Applicants cannot now switch to a different invention in this instant application.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The petition is GRANTED to the extent that Claims 1 and 11, as currently drafted, will continue to be treated as linking claims. The examiner will continue to examine the linking claims on the merits as long as claims 1 and 11 encompass the elected invention. In the event that the generic claims directed to the elected invention, which do not specifically require any SEQ ID NO:s, currently Claims 1 and 11, become allowable, the examiner will reconsider rejoinder of claims which depend from or otherwise all the limitations of allowable claims, including any directed to non-elected sequences.

The request to withdraw the restriction requirement made between all of SEQ ID Nos 1-48,664 or to allow applicants to switch their elected invention is DENIED.

Applicants remain under obligation to respond to the Office action mailed 30 November 2006 within the time period set forth in that Office action.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Christopher Low
Director, Technology Center 1600
jb/jg

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)
7012484	2006-03-14	10831318	2004-04-26	5382/0142PUS1

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	/Joe McKinney Muncy/	Date (YYYY-MM-DD)	2010-03-24
Name	Joe McKinney Muncy	Registration Number	32334

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 record s.

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. 7012484
Issue Date: March 14,2006
Application No. 10831318
Filed: April 26,2004
Attorney Docket No. 5382/0142PUS1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 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 March 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.

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

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of
Naoki Hagai et al.
Application No. 10/831,331
Filed: April 26, 2004
Attorney Docket No. 119548

ON PETITION

This is a decision on the petition filed April 23, 2010 to withdraw the holding of abandonment which is being treated under 37 CFR 1.181.

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

This application became abandoned on December 17, 2009, for failure to file a timely response to the non-Final Office Action mailed September 16, 2009, which set a three month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed April 2, 2010.

Petitioner argues however that a response was filed on March 16, 2010 with a three month extension of time and provides a copy of a post card receipt post marked on March 16, 2010 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, a response was filed on March 16, 2010. As well, a copy of the post-card receipt, date stamped by the USPTO on March 16, 2010 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed April 2, 2010 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2625 for treatment of the response filed March 16, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 01-05

Paper No: __

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

COPY MAILED

FEB 04 2005

OFFICE OF PETITIONS

In re Application of
Chan, et al. :
Application No. 10/831,339 : ON PETITION
Filed: 26 April, 2004 :
Attorney Docket No. 006314.00005 :

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 November, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 26 April, 2004, without, *inter alia*, a fully executed oath or declaration;

- the Office mailed a Notice of Missing Parts (*inter alia*, oath/declaration) on 1 July, 2004, with a response due absent extension of time on or before 1 September, 2004;

- the 31 August, 2004, petition was dismissed because, *inter alia*, the transmittal document was explicit that only the oath/declaration, and not the entire application (specification:

description abstract claims and drawings) was transmitted to the non-signing inventor Matthew Frank (Mr. Frank), and it was unclear that his last known address had been set forth only after diligent effort;

- with the instant petition the statement/petition/showing by Petitioner Robert Katz (Reg. No. 36,402)) makes a showing of transmittal to Mr. Frank at his last known address after diligent effort to ascertain that address, sets forth that address, and is accompanied by an oath/declaration signed by co-inventor David Chan (Mr. Chan) on behalf of himself and the non-signing inventor Mr. Frank.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

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Alexandria, VA 22313-1450
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SQUIRE, SANDERS & DEMPSEY LLP
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

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SEP 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Pasi Eronen	:	
Application No. 10/831,352	:	DECISION GRANTING PETITION
Filed: April 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 59864.00159	:	

This is a decision on the petition, filed September 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\831352.wpd

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

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NOV 24 2006

OFFICE OF PETITIONS

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, ON M5K 1N2
Canada

In re Application of :

Yoshinori Takeda :
Application No. 10/831,353 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. 33204-2004 : 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 18, 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 Theresa Fauconniar on behalf of all attorneys of record who are associated with Customer No. 33721.

All attorneys/agents associated with the Customer No. 33721 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 J Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yoshinori Takeda**
6253 Martin Road
Columbia, MD 21044

cc: **Torys LLP**
79 Wellington Street West
Suite 3000
Toronto, ON M5K 1N2
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/831,353	04/26/2004	Yoshinori Takeda	33204-2004

CONFIRMATION NO. 9104

OC000000021330418

OC000000021330418

33721
TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO, ON M5K 1N2
CANADA

Date Mailed: 11/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/18/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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IP Group of DLA Piper US LLP
One Liberty Place
1650 Market Street, Suite 4900
Philadelphia, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Yoshinori Takeda	:	
Application No. 10/831,353	:	DECISION ON PETITION
Filed: April 26, 2004	:	TO WITHDRAW
Attorney Docket No. PBI-07-1028	:	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 8, 2008.

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

A review of the file record indicates that the power of attorney to IP Group of DLA Piper US LLP has been revoked by the assignee of the patent application on August 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDermott Will Emery LLP**
600 13th Street, N.W.
Washington, DC 20005-3096

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-19-09 Paper No.: _____

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/831354 Patent No.: 7530468

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

FOR IFW FILES: Should Inventors be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

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_____

_____ _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-19-09 Paper No.: _____

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/831354 Patent No.: 7530468

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

FOR IFW FILES: Should Inventors be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Kevin Sirmons/
SPE **Art Unit**

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OFFICE OF PETITIONS

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

In re Application of
Thomas K. WONG, et al
Application No. 10/831,376
Filed: April 23, 2004
Attorney Docket No. CISCP557

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **DISMISSED** 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 September 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: BEYER WEAVER, LLP
500 12TH STREET, SUITE 200
OAKLAND, CA 94607

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of :
Gerard Chauvel, et. al. :
Application No. 10/831,388 : ON PETITION
Filed: April 22, 2004 :
Attorney Docket No. TI-36342 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed June 6, 2006. A Notice of Abandonment was mailed on December 21, 2006.

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; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2187for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 28 2005

In re Application of	:	
Burton Kozak	:	
Serial No. 10/831,391	:	DECISION ON PETITION
Filed: April 23, 2004	:	TO MAKE SPECIAL
For: DAMAGED BOLT AND SCREW REMOVING DEVICES	:	

Applicant's petition, filed March 8, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Michael J. Cherskov
Cherskov & Flaynik
20 N. Wacker Drive, Civic Opera Bldg.
Chicago, IL 60606

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MAR - 8 2007

In re Patent No. KOZAK, BURTON
Issue Date: 12/27/04
Appl No.: 10/831,391
Filed: April 23, 2004
For: Damaged Bolt and Screw Removing Devices

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 29, 2006 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.

Joseph J. Hail III
Supervisory Patent Examiner
Art Unit 3723
Technology Center 3700

CHERSKOV & FLAYNIK
THE CIVIC OPERA BUILDING
20 NORTH WACKER DRIVE, SUITE 1447
CHICAGO, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE 2/12/09

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/831399 Patent No.: 7168810 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Patent Claims 3, 4, 15, 16 and 17 correspond to application claims 24 25 28 29 and 30 respectively. In the amendment filed June 23, 2006. application claims 24, 25, 28, 29 and 30 all depend from claim 2.

[signature] 2862
SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/12/09 Paper No.: —

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/83/399 Patent No.: 7168810 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Patent Claims 3, 4, 15, 16 and 17 correspond to application claims 24 25 28 29 and 30 respectively. In the amendment filed June 23, 2006 application claims 24, 25, 28, 29 and 30 all depend from claim 2.

SPE 2862 Art Unit

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March 26, 2009

Nathan R. Maki
Pacwest Center, Suite 1600-1900
1211 SW Fifth Avenue
Portland, OR 97204

Patent No: 7,168,810 B2
Application No.: 10/831,399
Applicant: Mark D. Peterson, et al.
Issued: January 30, 2007
Title: **METHOD AND APPARATUS FOR ARRANGING LIGHT EMITTING DEVICES IN PROJECTION SYSTEMS**

Request for Certificate of Correction:

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

Per the examiner "patent claims 3, 4, 15, 16 and 17 correspond to application claims 24, 25, 28, 29 and 30 respectively. In the amendment filed June 23, 2006 application claims 24, 25, 28, 29 and 30 all depend from claim 2".

In view of the foregoing, your request in these matters is hereby **denied.**

Future correspondence concerning this matter should be directed to Decisions & Certificates of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or (703) 308-9390 ext. 113

vt

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Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR
& ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

MAY 3 1 2005

Technology Center 2100

In re Application of:
Louis Marcel Gino Monier
Application No. 10/831,422
Filed: April 23, 2004
For: METHOD AND SYSTEM TO FACILITATE BUILDING AND USING A SEARCH DATABASE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 22, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

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

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Scot Lorin Brooksby	: DECISION ON REQUEST FOR
Patent Number	: 7583286	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1083** 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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/17/2010

Applicant : Scot Lorin Brooksby
Patent Number : 7583286
Issue Date : 09/01/2009
Application No: 10/831,430
Filed : 04/23/2004

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

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

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

The patent term adjustment has been determined to be **1125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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Alexandria, VA 22313-1450
www.uspto.gov

David M. O'Dell
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

MAIL

AUG 0 3 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of:	)	
Satarasinghe et al.	)	
Application No. 10/831,435	)	
Filed: April 9, 2004	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR EXTENDING SECURE AUTHENTICATION USING UNIQUE SESSION KEYS DERIVED FROM ENTROPY GENERATED BY AUTHENTICATED METHOD	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed November 15, 2004.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on March 14, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Blakely, Sokoloff, Taylor & Zafman LLP, as the attorneys of record of the instant application. The Power Of Attorney of March 14, 2005, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Blakely, Sokoloff, Taylor & Zafman LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

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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
10/831,440	04/23/2004	2676	824	019680-009400US	5	23	3

CONFIRMATION NO. 1123

CORRECTED FILING RECEIPT

OC000000013801270

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

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)

Oren Rubinstein, Sunnyvale, CA;
Jonah M. Alben, San Jose, CA;
Wei-Je Huang, Fremont, CA;

Assignment For Published Patent Application

NVIDIA Corporation, Santa Clara, CA

Power of Attorney:

Babak S. Sani--37495
Jonathan M. Hollander--48717

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/831,440

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Point-to-point bus bridging without a bridge controller

Preliminary Class

345

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

GRANTED

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

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

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

NOT GRANTED

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

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APR 12 2005

Richard L. Myers
Myers Dawes Andras & Sherman LLP
Suite 1150
19900 MacArthur Blvd.
Irvine CA 92612

In re Application of	:	
Brad Topper et al.	:	
Serial No.: 10/831,441	:	DECISION ON PETITION
Filed: April 22, 2004	:	
For: Suturing Apparatus and Method	:	

This is in response to applicants' petition filed September 30, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-4050 or by facsimile transmission at (703) 872-9306.

/Richard A. Bertsch/
Richard A. Bertsch, Director
Technology Center 3700

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OFFICE OF PETITIONS

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

In re Patent No. 7,331,401 :
Issued: February 19, 2008 : LETTER REGARDING PTA AND
Application No. 10/831,445 : CERTIFICATE OF CORRECTION
Filed: April 22, 2004 :
Atty. Dkt. No.: 4669 :

This letter is in response to the ""GOOD FAITH" REQUEST FOR REVIEW OF PTA DETERMINATION," filed February 28, 2008. The Office thanks patentee for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,331,401 on February 19, 2008. The patent issued with a patent term adjustment (PTA) of 407 days. Patentee indicates that the adjustment of 407 days may be incorrect.

The calculation of adjustment has been reviewed and found to contain an error.

While the adjustment for Office delay of 502 days and the reduction of 62 days for applicant's failure to engage in reasonable efforts to conclude prosecution are correct, the reduction in connection with the response to the non-final Office action mailed November 6, 2006 was improperly calculated, as indicated by patentee.

The reduction under 37 CFR 1.704(b) is 34 days, rather than 33 days. The reduction commenced February 7, 2006, the day after the date that is three months after the date that the non-final Office action was mailed, and ended March 12, 2007, the date that a reply in response thereto was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 406 days (adjustment totaling 502 days less reductions totaling days).

As patentee is advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 406 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,331,401 B2
DATED	:	February 19, 2008
INVENTOR(S)	:	Bobenhausen, 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 407 days

Delete the phrase "by 407 days" and insert – by 406 days--

PALM INTRANET

Day : Sunday
Date: 6/1/2008
Time: 10:03:19

PTA Calculations for Application: 10/831445			
Application Filing Date:	04/22/2004	PTO Delay (PTO):	502
Issue Date of Patent:	02/19/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	95
Post-Issue Petitions:	0	Total PTA (days):	406
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
46.5	01/30/2008	PTA 36 MONTHS			
46	02/19/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
45	01/23/2008	EXPORT TO FINAL DATA CAPTURE			
44	01/22/2008	DISPATCH TO FDC			
43	01/19/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
42	12/20/2007	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		62	
41	12/20/2007	ISSUE FEE PAYMENT VERIFIED			
40	12/20/2007	ISSUE FEE PAYMENT RECEIVED			
39	11/26/2007	FINISHED INITIAL DATA CAPTURE			
38	10/16/2007	EXPORT TO INITIAL DATA CAPTURE			
37	10/10/2007	MAIL NOTICE OF ALLOWANCE			
36	09/14/2007	ISSUE REVISION COMPLETED			
35	09/14/2007	DOCUMENT VERIFICATION			
34	09/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	09/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	09/11/2007	NOTICE OF ALLOWABILITY			
31	09/10/2007	DATE FORWARDED TO EXAMINER			
30	09/04/2007	AMENDMENT AFTER FINAL REJECTION			
29	03/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	03/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	06/04/2007	MAIL FINAL REJECTION (PTOL - 326)			

26	05/24/2007	FINAL REJECTION			
25	03/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	03/11/2007	NEW OR ADDITIONAL DRAWING FILED			
23.7	03/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	21
23	03/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/26/2007	DATE FORWARDED TO EXAMINER			
21	03/11/2007	RESPONSE AFTER NON-FINAL ACTION		33	19
20	03/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	11/06/2006	MAIL NON-FINAL REJECTION	502		-1
18	10/16/2006	NON-FINAL REJECTION			
17	09/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	04/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	10/26/2005	MISCELLANEOUS INCOMING LETTER			
14	09/16/2005	REFERENCE CAPTURE ON IDS			
13.7	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11.7	04/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	11/19/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	07/02/2004	APPLICATION DISPATCHED FROM OIPE			
6	07/02/2004	APPLICATION IS NOW COMPLETE			
4	05/26/2004	CLEARED BY OIPE CSR			
3	05/26/2004	CASE CLASSIFIED BY OIPE			
2	05/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/22/2004	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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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

Mail Date: 04/21/2010

Applicant	: Diego Dugatkin	: DECISION ON REQUEST FOR
Patent Number	: 7627669	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,452	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1406** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

BOSE MCKINNEY & EVANS LLP
INTELLECTUAL PROPERTY GROUP
2700 FIRST INDIANA PLAZA
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS, IN 46204

In re Application of :
Bernard TAO, et al :
Application No. 10/831,458 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 8660-0031 :

This is a decision on the petition under 37 CFR 1.182, filed, December 4, 2007, to change the name of inventor "**Amy Hutchison**" to – **Amy Ebenezer** --.

The petition is **DISMISSED**.

The petition cannot be granted because it does not include a statement signed by the applicant setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order. See MPEP 605.04(c).

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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WWW.USPTO.GOV

Paper No. None

Vic Y. Lin
Myers Dawes Andras & Sherman LLP
11th Floor
19900 MacArthur Boulevard
Irvine CA 92612

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OFFICE OF PETITIONS

In re Application of :
Hong Y. Chou et al. :
Application No. 10/831,462 :
Filing Date: April 23, 2004 : DECISION ON PETITION
Title: AIRPORT CUSTOMER SUPPORT : UNDER 37 C.F.R. §1.10
DISPATCH SYSTEM AND METHOD FOR :
OPERATION FOR THE SAME

This is a decision on the petition filed July 19, 2004, requesting that the above-identified application be accorded a filing date of March 8, 2004.

Shortly after April 23, 2004, the above-identified application was received in the Office. The Office of Initial Patent Examination mailed Petitioner's filing receipt, indicating that the application had been accorded a filing date of April 23, 2004.

In response, on July 19, 2004, applicants filed the present petition. On August 3, 2004, the Office mailed a "Response to Request for Corrected Filing Receipt," stating that a copy of the Express Mail label was not included with the request. On September 13, 2004, Petitioner submitted a blank copy of the Express Mail label, and on October 5, 2004, another Response to Request for Corrected Filing Receipt was sent to Petitioner, stating that the filing date should be the "date-in" on the label.

On October 18, 2004, Petitioner submitted a copy of his Express Mail label which shows a date-in of April 23, 2004, along with a

statement which establishes that he accepts this date as his filing date.

Therefore, this petition is **DISMISSED AS MOOT**.

After the mailing of this decision, the application will be forwarded to Technology Center 3600.

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

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

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WOMBLE CARLYLE SANDRIDGE & RICE
P. O. BOX 7037
ATLANTA, GA 30357-0037

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Demir Baykal et al :
Application No. 10/831,481 : DECISION GRANTING PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M220 1010.1 :

This is a decision on the petition, filed July 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 June 7, 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 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed request under 37 CFR 1.48(a) to correct the inventorship in this application.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\july10\831481.wpd

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

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DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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SEP 25 2008

In re Application of :
Dominic Crosthwaite et al. :
Application No. 10/831,501 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No.: **03-6145** :

This is a decision on the petition filed August 29, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 29, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March 3, 2008. Accordingly, a Notice of Abandonment was mailed June 18, 2008.

This matter is being referred to Technology Center 3693 for appropriate action on the amendment filed August 29, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of Wang :
Application No. 10/831,507 : Decision on Petition
Filing Date: April 23, 2004 :
Attorney Docket No. TSAI0012 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned because a timely reply was not filed in response to the non-final Office action mailed September 7, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on December 8, 2005. A Notice of Abandonment was mailed on May 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.

Technology Center Art Unit 2822 will be informed of the instant decision and the amendment filed with the petition will be entered and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/831,535	04/23/2004	2874	0.00	Dewell - 14844	8	21	4

CONFIRMATION NO. 9501

CORRECTED FILING RECEIPT

OC000000013863824

Jonathan M. Darcy
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Date Mailed: 09/22/2004

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

Applicant(s)

Joseph Abeles, East Brunswick, NJ;
David Capewell, Brown Mills, NJ;
Lou DiMarco, Mercer County, NJ;
Martin Kwakernaak, New Brunswick, NJ;
Nagendranath Maley, Exton, PA;
Hooman Mohseni, Princeton, NJ;
Ralph Whaley, Princeton Junction, NJ;
Liyou Yang, Plainsboro, NJ;

Power of Attorney:

Louis M. Heidelberger–27899
William J. McNichol Jr.–31179
John W. Goldschmidt Jr.–34828
Matthew Esserman–41536
Jonathan D'Arcy–44054
Maryellen Feehery–44677
Nanda Kumar–44853
Thomas McWilliams–44930
Carl Pierce–45730
Todd Norton–48636

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/464,763 04/23/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/02/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/831,535

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

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for coupling waveguides

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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May 10, 2005

JONES DAY
222 East 41st Street
New York, NY 10017

In re Application of:	Prammer et al.	:	
Application No.	10/831,567	:	NOTICE OF WITHDRAWAL
Filed:	April 23, 2004	:	FROM ISSUE
Attorney Docket No.	7420-125-999	:	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 Issue Fee Due and the Notice of Allowability mailed February 22, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution for the application of pertinent prior art to the claimed invention.

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 Drew Hirshfeld at (571) 272-2168.

Howard Goldberg, Director
Technology Center 2800

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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MAY 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Gerard CHAUVEL et al :
Application No. 10/831,575 : ON PETITION
Filed: 4/22/2004 :
Attorney Docket No. TI-36341 :

This is a decision on the petition under 37 CFR 1.137(b), filed 3/17/2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 8/27/2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on 11/28/2007.

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 an amendment; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of 8/27/2007 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

The application file is being referred to Technology Center AU 2194 for appropriate action on the concurrently filed amendment.

for David A. Bucci
Petitions Examiner
Office of Petitions

cc: DAVID M. WILSON
CONNELLY ROSE, P.C.
P.O. BOX 3267
HOUSTON, TEXAS 77253-3267

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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

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NOV 19 2008

In re Application of :
Heimann et al. :
Application No. 10/831,581 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. EL030RH-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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, April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 1795 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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IVY Y. MEI
800 EL CAMINO REAL W.
SUITE 180
MOUNTAIN VIEW CA 94040

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of :
Hongwu, Yang :
Application No. 10/831,582 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. Yang-CN-0002US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center AU 3744 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Bryan Mark Willman	:	DECISION GRANTING
Application No. 10/831,596	:	PETITION
Filed: April 23, 2004	:	
Attorney Docket No. MSFT-3012/305833.01	:	

This is a decision on the petition under 37 CFR 1.10(d), filed May 27, 2004, requesting that the above-identified application be accorded a filing date of April 23, 2004, rather than the presently accorded filing date of April 22, 2004.

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 23, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicant provided a copy of Express Mail receipt number EL999296422US, and a U.S. Postal Service (USPS) sales receipt for the Express Mail package in question. The same Express Mail number appears on the original transmittal letter submitted with the instant application.

It is noted that the Express Mail receipt shows a handwritten "date-in" of "04-22-04", the receipt also includes a USPS receipt stamp date April 23, 2004 but the notation is illegible. However, the USPS sales receipt clearly shows that Express Mail label No. EL999296422US was accepted for deposit on April 24, 2004.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 23, 2004. Accordingly, the instant application is entitled to a filing date of April 23, 2004, and has been so accorded.

The petition is granted. The $130.00 petition fee is being credited to Deposit Account No. 08-3038 as authorized.

This matter is being referred to Technology Center AU 2131 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/831,596	04/23/2004	2131	1004	MSFT-3012/305833.01	4	33	3

CONFIRMATION NO. 1901

CORRECTED FILING RECEIPT

OC000000013525831

23377
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 08/12/2004

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)

Bryan Mark Willman, Kirkland, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2004

Projected Publication Date: 10/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Fire locker and mechanisms for providing and using same

Preliminary Class

713

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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GORDON & RAES LLP
101 WEST BROADWAY, SUITE 1600
SAN DIEGO, CA 92101

Mail Date: 04/21/2010

Applicant	: Donald Robert Rockwell	: DECISION ON REQUEST FOR
Patent Number	: 7062790	: RECALCULATION of PATENT
Issue Date	: 06/20/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,598	: OF WYETH
Filed	: 04/23/2004	:
		:

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/831,614	04/23/2004	3624	914	069547.0147	16	28	2

CONFIRMATION NO. 1771

CORRECTED FILING RECEIPT

OC000000013806038

05073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Date Mailed: 09/22/2004

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

Applicant(s)

Dominic Crosthwaite, London, UNITED KINGDOM;
Lewis C. Findlay, London, UNITED KINGDOM;

Assignment For Published Patent Application

Cantor Index LLC

Power of Attorney: The patent practitioners associated with Customer Number **05073**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/471,744 05/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/831,614

Projected Publication Date: 12/23/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method for managing trading order requests

Preliminary Class

705

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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IPxLAW Group LLP
95 South Market Street
Suite 570
San Jose CA 95113

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Edwin Klingman :
Application No. 10/831,649 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 614-4301 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 23, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2009. Accordingly, the date of abandonment of this application is June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Ron Abeson at (571) 272-3165 or the undersigned at 571-272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

COPY MAILED

JUL 17 2007

OFFICE OF PETITIONS

In re Application of :
Leonard J. Tokish Jr. et al. :
Application No. 10/831,657 : DECISION ON PETITION
Filed: April 22, 2004 : TO WITHDRAW
Attorney Docket No. 29914-707.201 : 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 December 8, 2006.

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

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 5, 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.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group LLP**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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KAREN B. TRIPP
ATTORNEY AT LAW
P.O. BOX 1301
HOUSTON TX 77251-1301

COPY MAILED

JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
West et al.	:	
Application Number: 10/831668	:	DECISION ON PETITION
Filing Date: 04/24/2004	:	
Attorney Docket Number:	:	
HALB:036	:	

This is a decision on the petition filed on December 3, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 29, 2007, for failure to file a response to the non-final Office action mailed on March 28, 2007, 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 November 21, 2007.

---

[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)).

Receipt of the amendment filed with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 1796 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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SHARP LABORATORIES OF AMERICA, INC.
C/O LAW OFFICE OF GERALD MALISZEWSKI
P.O. BOX 270829
SAN DIEGO, CA 92198-2829

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Wei-Wei ZHUANG, et al	:	
Application No. 10/831,677	:	DECISION ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. SLA0754	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 15, 2008. Accordingly, the date of abandonment of this application is April 16, 2008.

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

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

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

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10831677 Total Records Found: 8

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/24/2008	00001879	4	1453	$1,540.00	04/23/2008	CC
04/24/2008	00001880	4	1501	$1,440.00	04/23/2008	CC
04/24/2008	00001881	4	1504	$300.00	04/23/2008	CC
03/28/2006	00000025	1	1801	$790.00	03/27/2006	CC
04/27/2005	00000220		8007	$20.00	04/25/2005	DA 191457
05/06/2004	00000421	1	8021	$40.00	04/23/2004	DA 191457
05/04/2004	00000144	1	1001	$770.00	04/23/2004	DA 191457
05/04/2004	00000145	1	1202	$54.00	04/23/2004	DA 191457

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:		)
		) ATTORNEY FILE NO.:
Inventors:	Zhuang et al.	) SLA0754
		)
Serial No.:	10/831,677	)
		) Examiner: Thomas, Toniae
		)
Filed:	April 23, 2004	) Customer No.: 55,286
		)
Title:	PCMO THIN FILM WITH MEMORY RESISTANCE PROPERTIES	) Group Art: 2822
		)
		) Confirmation No.: 8876
		)

PETITION UNDER 37 C.F.R. § 1.137(b)
TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

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

Sir:

This Petition requests revival of the above-identified application which Applicants' attorney learned has become abandoned, unintentionally, due to the Applicant failing to respond to a Notice of Allowance, dated January 15, 2008, in a timely matter.

REMARKS

Applicant herein petitions the Director under 37 C.F.R. §1.137(b) to revive the application, which was abandoned unintentionally. Authorization to charge the fee under 37 C.F.R. §1.17(m) is being submitted concurrently with this communication. Also being submitted is an Issue Fee Tranmittal form (PTOL-85) and authorization to charge the issue and publication fees.

In compliance with 37 C.F.R. §1.137(b)(3), Applicants state 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.

In view of the foregoing, Applicants request that this petition be granted and that the accompanying Issue fee response be entered.

Respectfully submitted,

Date: 4/23/2008

Gerald Maliszewski
Registration No. 38,054

Customer Number 55,286
P.O. Box 270829
San Diego, CA 92198-2829
Telephone: (858) 451-9950
Facsimile: (858) 451-9869
gerry@ipatentit.net
505

PART B - FEE(S) TRANSMITTAL

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

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

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

55286 7590 01/15/2008

SHARP LABORATORIES OF AMERICA, INC.
C/O LAW OFFICE OF GERALD MALISZEWSKI
P.O. BOX 270829
SAN DIEGO, CA 92198-2829

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

Certificate of Mailing or Transmission

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

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/831,677	04/23/2004	Wei-Wei Zhuang	SLA0754	8876

TITLE OF INVENTION: PCMO THIN FILM WITH MEMORY RESISTANCE PROPERTIES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	04/15/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
THOMAS, TONIAE M	2822	438-100000

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

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

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

2. For printing on the patent front page, list

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

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

Law Office of
1 Gerald Maliszewski
2 Gerald Maliszewski
3

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

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

(A) NAME OF ASSIGNEE: Sharp Laboratories of America, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY) 5750 Pacific Rim Blvd. Camas, WA 98607

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

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

☒ Issue Fee

☒ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

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

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

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

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

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

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date 4/23/2008

Typed or printed name Gerald Maliszewski Registration No. 38,054

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

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

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COLORADO SPRINGS CO 80906

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of : **DAVIES**, et al. : Application No. 10/831,688 : Filed: April, 23, 2004 : Attorney Docket No. **CHAP.0108** :

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 4, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2114 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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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Ian Robert Davies, et al. :
Application No. 10/831,689 : DECISION GRANTING PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CHAP.0105 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 18, 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 27, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Crosby for

Frances M. 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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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Ian Robert Davies et al :
Application No. 10/831,689 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. CHAP.0105

This is a decision on the petition, filed August 15, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2114 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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OCT 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Ian Robert Davies et al :
Application No. 10/831,689 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. CHAP.0105

This is a decision on the petition, filed October 3, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2114 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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NOV 28 2007

OFFICE OF PETITIONS

In re Application of
DAVIES, et al.
Application No. 10/831,689
Filed: April 23, 2004
Attorney Docket No. **CHAP.0105**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 23, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 25, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2114 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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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
DAVIES, et al. :
Application No. 10/831,690 : DECISION GRANTING PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **CHAP.0106** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 22, 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 November 7, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2181 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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Daniel R. Shepard
186 Atlantic Avenue
North Hampton NH 03862

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Shepard :
Application No. 10/831,695 : ON PETITION
Filed: April 24, 2004 :
Title. Trailer Backing Up Device and Method :

This is in response to the Petition to Withdraw Holding of Abandonment, filed June 22, 2007, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment. Petitioner has also requested that the petition be considered under 37 CFR 1.137(a).

The petition is **DISMISSED**.

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

On November 7, 2006, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on February 8, 2007, for failure to submit a timely response to the non-final Office action. On June 15, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the non-final Office action. Specifically, petitioner states that when he receives a mailing from the Patent Office, he places the mailing in the front of a folder dedicated to the patent application. Petitioner also states that he makes copies of any responses he sends in to the Office. The copies are located in the front of the same folder. Petitioner also contends that he has not located the non-final Office action among his other mail or in any other folder.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the non-final Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the non-final Office action of November 7, 2006, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after November 7, 2006, to demonstrate nonreceipt of the non-final Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the non-final Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after November 7, 2006; the period when he would have received the non-final Office action.

In the present petition, while petitioner has presented some statements regarding where communications that are received are filed, additional information as indicated above is required. Petitioner has also failed to state how he keeps track of the due dates once the communication is placed in the dedicated file. Petitioner has not provided any documentary evidence such as a copy of the front of the file, a copy of the documents in the file, any calendar system. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

PETITION UNDER 37 CFR 1.137(A)

Petitioner has also filed a petition under 37 CFR 1.137(a).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item(s) (1) and (3).

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, 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.

As such the petition under 37 CFR 1.137(a) is **Dismissed.**

ALTERNATIVE VENUE

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

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$770.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $770.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

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

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Daniel R. Shepard
186 Atlantic Avenue
North Hampton NH 03862

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Daniel Shepard :
Application No. 10/831,695 : DECISION ON PETITION
Filed: April 24, 2004 :
Title: Trailer Backing Up Device and :
Method

This is a decision on the renewed petition, filed March 5, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. Petitioner has also filed a request for reconsideration under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED**.

This application was held abandoned for failure to reply to the non-final Office action mailed November 7, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 15, 2007.

Petitioner asserts that the Office action dated November 7, 2006 was not received.

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

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

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

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

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

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

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

PETITION UNDER 37 CFR 1.137(A)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The petition under 37 CFR 1.137(a) is **Dismissed** as moot.

As to petitioner's request for reconsideration under 37 CFR 1.137(a), in light of the holding of abandonment being withdrawn under 37 CFR 1.181 consideration of the petition is not required. It should however be noted any petition filed under 37 CFR 1.137(a) requires the petition fee. Although the petition indicates $250.00 towards the $255.00 petition fee was provided, a review of the record shows that the $250.00 was not received.

In light of the receipt of a reply to the November 7, 2006 Office action, re-mailing of Office action is not required. This application is being referred to Art Unit 3661 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

Mail Date: 06/16/2010

Applicant	: Nelson Willhite	: DECISION ON REQUEST FOR
Patent Number	: 7633861	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/831,699	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** 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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FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

WARREN CARLSON
1910 MONTEREY AVENUE
MERRITT ISLAND, FL 32952

In re application of : **DECISION ON PETITION**
Warren Merrill Carlson : **TO MAKE SPECIAL**
Application No. 10/831,714 : **(APPLICANT'S AGE)**
Filed: April 26, 2004 :
For: FLAG OR UMBRELLA SUPPORT POLE

This is a decision on the petition submitted on April 26, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed declaration and birth certificate of Mr. Carlson indicating that he is at least 65 years of age.

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

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

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

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

KJD/slb: 9/24/04

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United States Patent and Trademark Office
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JUN 12 2008

OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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

In re Application of
Mark A. L. Smallwood, et al.
Application No. 10/831,721
Filed: April 23, 2004
Attorney Docket No. 137761

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 9, 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 May 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2619 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB .2 2005

In re Application of :
Sanford D. Hirschel *et al* : DECISION ON PETITION
Application No. 10/831,730 :
Filed: April 22, 2004 :
Attorney Docket No. 16319-07895 :

This is a decision on the petition to make special filed on August 6, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3753 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LEGAL STAFF – INTELLECTUAL PROPERTY
GENERAL MOTORS CORPORATION
300 RENAISSANCE CENTER, MAIL CODE 482 C23 B21
P.O. BOX 300
DETROIT, MI 48265-3000

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OFFICE OF PETITIONS

In re Application of :
Reddy, Sam R. :
Application No. 10/831,734 : ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. GP-304398 :

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

With regards to item (3) above, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition fee will not be refunded as the Corrected Notice of Allowance mailed March 2, 2007 was properly mailed to the correct correspondence address of record at that time. A Change of Correspondence Address was not received until June 29, 2007.

If petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

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

Enclosure: PTOL-85b

PART B - FEE(S) TRANSMITTAL

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

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

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

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

Certificate of Mailing or Transmission

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

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

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

TITLE OF INVENTION:

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

EXAMINER	ART UNIT	CLASS-SUBCLASS

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

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

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

2. For printing on the patent front page, list

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

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

1 _____

2 _____

3 _____

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

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

(A) NAME OF ASSIGNEE

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

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

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

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

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

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

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

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

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

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of Osborne et al. :
Application No. 10/831,740 : On Application For
Filing Date: April 23, 2004 : Patent Term Adjustment
Attorney Docket No. 8627-554 (PA-5405-RFB) :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Pursuant to 37 CFR § 1.705(b)" filed October 6, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is six hundred thirty-six (636) days, not four hundred sixty-one (461) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Thomas A. Osborne	: DECISION ON REQUEST FOR
Patent Number	: 7651469	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **635** 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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ROBERT PLOTKIN, ESQ.
45 BUTTERNUT CIRCLE
CONCORD, MA 01742-1937

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Jonathan Betts-LaCroix et al :
Application No. 10/831,758 : DECISION ON PETITION
Filed: April 23, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. D0000-1508 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

The instant pending nonprovisional application was filed on April 23, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/465,740, which was filed on April 25, 2003, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii).

Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/465,740 is granted.

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

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

The application is being forwarded to Technology Center AU 2673 for examination and for appropriate action on the amendment submitted September 4, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/465,740.

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

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Louisville, KY 40205

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OFFICE OF PETITIONS

In re Application of :
Greenwell : DECISION ON PETITION
Application No. 10/831,766 :
Filed: April 24, 2004 :
Docket No.: AC153/2000 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 3, 2006.

This application was held abandoned August 27, 2005 for failure to timely submit a proper reply to the non-final Office action mailed May 26, 2005. Notice of Abandonment was mailed December 5, 2005.

Petitioner asserts that a response to the non-final Office action and a petition for extension of time were timely submitted on November 28, 2005 and that the response bore a certificate of mailing in accordance with 37 CFR 1.8. Petitioner further argues that the response was received by the USPTO on December 1, 2005.

The original response and petition for extension of time submitted December 1, 2005 (certificate November 28, 2005) have been located in the official application file. In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Ronaldus Adrianus Maria Fouchier et. al. :
Application No. 10/831,781 : DECISION ON PETITIONS UNDER
Filed: April 23, 2004 : 37 CFR §§§ 1.78(a)(3), 1.78(a)(6)
Attorney Docket No. 7682-111-999 : AND 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed December 10, 2009, which is being treated as petitions under 37 CFR §§§ 1.78(a)(3), 1.78(a)(6) and 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§§ 120, 365(c) and 119(a)-(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6)

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

The petition fails to comply with item (1) above. In this regard, petitioner states in part "this application is a continuation-in-part of U.S. Application No. 12/317,496 filed December 22, 2008." However, the parent application (12/317,496) potential filing date must be earlier or equal to the current case (10/831,781) filing date. Therefore, the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) are **DISMISSED**.

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

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

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

The petition fails to comply with item (2) above. In this regard, 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 (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) 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 application 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.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the amendment. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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By fax: (571) 273-8300
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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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OFFICE OF PETITIONS

In re Application of :
Ronaldus Adrianus Maria Fouchier et. al. :
Application No. 10/831,781 : DECISION ON PETITIONS UNDER
Filed: April 23, 2004 : 37 CFR §§§ 1.78(a)(3), 1.78(a)(6)
Attorney Docket No. 7682-111-999 : AND 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed December 10, 2009, which is being treated as petitions under 37 CFR §§§ 1.78(a)(3), 1.78(a)(6) and 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§§ 120, 365(c) and 119(a)-(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6)

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

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) is accepted as being unintentionally delayed. Therefore, the petition is **granted**.

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

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

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

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

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

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

The petition fails to comply with item (2) above. In this regard, 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 (ADS) in accordance with 37 CFR 1.76(b)(6).

Petitioner argues" that no such earlier reference in an oath or declaration, or an application data sheet is required under 37 C.F.R. §1.55(c). Rather, 37 C.F.R. § 1.55(c) provides that a petition to accept a delayed claim for priority under 35 U.S.C. §§ 119(a)-(d) or 365(a) must be accompanied by *inter alia* the claim under 35 U.S.C. §§ 119(a)-(d) or 365(a) and 37 .C.F.R. § 1.55 to the prior foreign application, unless previously provided. Thus, a petition under 37 C.F.R. § 1.55(c) does not require that the priority information be included in an oath or declaration, or an application data sheet."

The petition under 37 CFR 1.55(c) is again **dismissed**.

Petitioner's argument is not well taken. Unless provided in an ADS, **37 CFR 1.63(c)(2)** 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 application 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.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the amendment. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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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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OFFICE OF PETITIONS

In re Application of :
Ronaldus Adrianus Maria Fouchier et. al. :
Application No. 10/831,781 : DECISION ON PETITION UNDER
Filed: April 23, 2004 : 37 CFR § 1.55(c)
Attorney Docket No. 7682-111-999 :

This is a decision on the renewed petition under 37 CFR 1.55(c) filed June 24, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to the prior filed foreign applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

This pending nonprovisional application was filed after April 23, 2004, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

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

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

A Filing Receipt, which includes the priority claim to the prior-filed foreign applications, is enclosed with this decision.

This application is being referred to Technology Center AU 1648 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/831,781	04/23/2004	1648	1352	7682-111-999	28	1

CONFIRMATION NO. 9733

CORRECTED FILING RECEIPT

20583
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NEW YORK, NY 10017

Date Mailed: 07/15/2010

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)

Ronaldus Adrianus Maria Fouchier, Rotterdam, NETHERLANDS;
Bernadetta Gerarda Van Den Hoogen, Rotterdam, NETHERLANDS;
Albertus Dominicus Erasmus Osterhaus, Bunnik, NETHERLANDS;
Aurelia Haller, Boulder, CO;
Roderick Tang, San Mateo, CA;
Inn Huam Yuk, 1729 Sixth Street, CA;

Power of Attorney: The patent practitioners associated with Customer Number 20583

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/466,181 04/25/2003
and claims benefit of 60/499,274 08/28/2003
and claims benefit of 60/550,931 03/05/2004
and is a CIP of 10/371,264 02/21/2003 ABN
which claims benefit of 60/358,934 02/21/2002
and is a CIP of PCT/NL02/00040 01/18/2002

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 01200213.5 01/19/2001
EUROPEAN PATENT OFFICE (EPO) 01203985.5 10/18/2001

If Required, Foreign Filing License Granted: 06/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/831,781**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Recombinant parainfluenza virus expression systems and vaccines comprising heterologous antigens derived from metapneumovirus

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Dillon & Yudell LLP
Suite 2110
8911 No. Capital of Texas Hwy.
Austin, TX 78759

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APR 17 2006
OFFICE OF PETITIONS

In re Patent No. 6,909,107 :
Issue Date: June 21, 1995 :
Application No. 10/831,785 : ON PETITION
Filed: April 26, 2004 :
Patentee(s): John C. Rodgers, et. al. :

This is a decision on the Request for Certificate of Correction filed January 30, 2006, which is being treated as a request under 37 CFR 3.81[1], to add the name of the co-assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner should note, that when correcting a clerical error for failure to include all the names of the assignee on the Fee(s) Transmittal form, a request under 37 CFR 3.81 and $130 processing fee are required. Therefore, the $130 processing fee for treatment of the instant request has been charged to petitioner's deposit account.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Theodore P. Crupi :
Application No. 10/831,810 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. P/1817-14 :

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

The petition is **DISMISSED as moot**.

Unfortunately, the petition was not referred to the appropriate official for a decision until after December 6, 2005, the date upon which the above-identified application issued as U.S. Patent No. 6,971,920.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received in the Office of Petitions for consideration until December 8, 2005.

While petitions to withdraw from issue may be mailed to the Commissioner of Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on December 6, 2005. The RCE and the information disclosure statement (IDS) will be placed in the file of the above-identified

application without further consideration. See 37 CFR 1.97(I). The $395 RCE filing fee paid on December 1, 2005 is being credited to counsel's deposit account.

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

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

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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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Siddharth S. Rege et al :
Application No. 10/831,828 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. DP-310833

This is a decision on the petition, filed February 27, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 31, 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 2873 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).

10/831,831

PETITION MOOT - APPLICATION ALLOWED

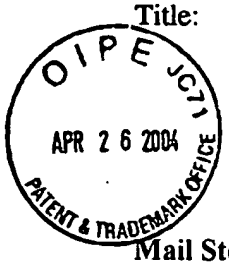
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): SABAN, Alex et al. Atty. Docket: 41775002

Title: **SIGNAL LIGHT FOR ATTRACTING DELIVERIES**

HIEN H. PHAN
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2800



PETITION TO MAKE SPECIAL GROUNDS: SPECIAL PROCEDURE (37 CFR §1.102; MPEP 708.02(VIII))

Mail Stop Patent Application
Commissioner for Patents
Washington, D.C. 20231

This petition is filed in the above-noted application to obtain special status and expedited examination of the above-noted application. As per MPEP 1002.02(s), subpart 1(f), it is understood that this Petition is to be decided by the Special Program Examiner of the Technology Center to which this application is assigned. If this understanding is incorrect, please forward to the Office of Petitions or the other responsible entity.

Please note that this Petition is filed under the provisions of MPEP 708.02(VIII), though one reason for its filing is that infringement is expected soon: the application's owner presented the invention to a number of interested parties, and shortly thereafter, an unknown party – believed to be one of the parties to whom the invention was presented – requested a quote from the owner's manufacturer for directly providing quantities of the invention to that party, without having to obtain the invention from the owner of the application. In other words, it is believed that one of the parties to whom the owner presented the invention is currently actively seeking a third party to manufacture the invention, without any participation by (or royalties to) the application's owner. While no current and actual infringement is known to exist (and thus this Petition cannot fairly seek expedited examination as per MPEP 708.02(II)), there is a high probability that the party will be able to locate a manufacturer and commence infringement, particularly since the party is simply seeking to directly reproduce the owner's invention and will thereby incur no research and development costs which might affect its costs. Therefore, favorable consideration of this Petition and rapid examination are highly desirable to the owner. Do not hesitate to contact the undersigned attorney if any questions arise.

04/28/2004 SSITHIB1 00000038 10831831
01 FC:1460 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

JUN 2 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Bond et al.	:	
Application No. 10/831,835	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 8547RD	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 25, 2010, 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 January 6, 2010 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 March 7, 2010. *See* MPEP 1214.06. A Notice of Abandonment was mailed March 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The file is now being forwarded to Technology Center 1794 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of :
Murray s. Toas et al :
Application No. 10/831,843 : DECISION GRANTING PETITION
Filed: April 26, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. D0932-00392 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 March 29, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 1,020 extension of time fee submitted with the petition on July 2, 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 the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1771.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

DATE 1-19-08 APPLICATION NUMBER 10/831,843

DOC CODE WFEE DOC DATE 7-2-07

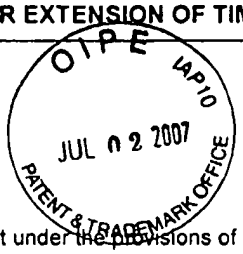
DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

PTO/SB/22 (05-03)
Approved for use through 4/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) | Docket Number (Optional) D0932-00392



In re Application of Murray S. TOAS	
Application Number 10/831,843	Filed 26 April 2004
For Flame Resistant Fibrous Insulation and Methods of Making	
Art Unit 1771	Examiner Arden B. SPERTY

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☐ One month (37 CFR 1.17(a)(1)) $_____
- ☐ Two months (37 CFR 1.17(a)(2)) $_____
- ☑ Three months (37 CFR 1.17(a)(3)) $ 1020
- ☐ Four months (37 CFR 1.17(a)(4)) $_____
- ☐ Five months (37 CFR 1.17(a)(5)) $_____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: $_____.

☐ A check in the amount of the fee is enclosed.

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

☐ The Director has already been authorized to change fees in this application to a Deposit Account 04-1679 10831843

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 04-1679.

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

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

☑ attorney or agent of record.

☐ attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____.

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.

29 June 2007
Date

Signature

215-979-1849
Telephone Number

Gary D. Colby, Reg. No. 40,961
Typed or printed name

01 FC:1253 1020.00 DA

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

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 6 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.

Adjustment date: 01/22/2008 CKHLOK 10831843
07/03/2007 MBLANCO 00000005 041679
01 FC:1253 1020.00 CR

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1-14-08 | 2 Serial/Patent # 10/837,843

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time		9-2-07	$ 1,020
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,020

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [x] Credit Deposit A/C #:

9 04--1679

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

Extension Fee not necessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Petitions Examiner

SIGNATURE: K Creasy PHONE: 2-3208

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: OK to K DATE: 1/22/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/18/04

Stephanie M. Mansfield
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/831872 received on 05/28/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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RIVERFRONT OFFICE
ONE MAIN ST
ELEVENTH FLOOR
CAMBRIDGE MA 02142

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Kenneth P. Weiss	:	
Application No. 10/831,879	:	ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. W05347-700540	:	

This is a decision on the petition filed on August 24, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed February 21, 2007. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No proper response having been received, the above-identified application became abandoned on May 22, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

On petition, petitioner paid the petition fee, submitted the required reply in the form of a Notice of Appeal, and made the proper statement of unintentional delay.

Please be advised that the two month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being returned to Group Art Unit 2615 to await for applicant's submission of the appeal brief.

Telephone inquiries specific to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

SEP - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Jason P. Fiorillo
TESTA, HURWITZ & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
AFEYAN et al.
Application No. 10/831,881
Filed: April 26, 2004
For: METHOD AND APPARATUS FOR EVOLUTIONARY DESIGN

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 26 April 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 **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.

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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 submissions of 26 April 2004 meet 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
703-305-9750

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ISIS PHARMACEUTICALS, INC.
1896 Rutherford Road
Carlbad, CA 92008

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
CROOKE, et al. :
Application No. 10/831,901 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. ISIS0083-100(BIOL0008US) : 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 05, 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). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "File transferred to another firm," are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

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 Patricia Volpe at 571-272-6825.

for David Bucci
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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LAW OFFICE OF DAVID MCEWING
P.O. BOX 231324
HOUSTON TX 77023

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Blackmore, Richard	:	
Application No. 10/831,933	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. V-045	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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 1791 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

In re Application of :
Torben N. Nielsen. :
Application No.: 10/831,963 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. PH01-00-14 C1 :

This is in response to the petition under 37 CFR 1.137(b) filed March 21, 2006.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on July 1, 2004, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required payment of the filing fee, claim fee, and surcharge. A response was not received within the allowable period, and the application became abandoned on September 2, 2004. A Notice of Abandonment was mailed on March 21, 2005.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The required fees were received on March 21, 2006.

The petition fee of $750.00 will be charged to deposit account 50-1047.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya McLaughlin

Kenya A. McLaughlin
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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 04/20/2010

Applicant	: William Galen	: DECISION ON REQUEST FOR
Patent Number	: 7457769	: RECALCULATION of PATENT
Issue Date	: 11/25/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/831,969	: OF WYETH
Filed	: 04/26/2004	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/29/09

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 10831970 Patent No.: 7536683

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: PREVIOUSLY SUBMITTED W/ BIB SHEET & TRANSMITTAL LETTER

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

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OFFICE OF PETITIONS

In re Patent No. 7,531,625
Application No. 10/831,979
Filed: April 26, 2004
Issued: May 12, 2009
Attorney Docket No. 10284-086002

ON PETITION

This is a decision on the petition filed April 27, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Pamela Olson et al.	Art Unit	: 1643
Serial No.	: 10/831,979	Examiner	: Christopher H. Yaen
Filed	: April 26, 2004	Conf. No.	: 9797
Title	: BETA NETRIN AND USES THEREOF		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PATENT ISSUANCE TO ASSIGNEE AFTER PAYMENT OF ISSUE FEE PURSUANT TO 37 CFR 3.81(B)

The Response to the Notice of Allowance and Part B – Fee(s) Transmittal for the above-identified patent application were submitted to The United States Patent and Trademark Office on April 6, 2009 and inadvertently omitted the name and address of the second Assignee, Tufts University.

An assignment to Tufts University was submitted for recordation as set forth in 37 CFR 3.11 on May 4, 2005, before issuance of the patent, and was recorded at Reel/Frame: 016189/0107.

Applicants hereby attach a Certificate of Correction under 37 CFR 1.323 and request that The United States Patent and Trademark Office issue a Certificate of Correction including the name of Tufts University as an assignee.

Please charge the $100 certificate of correction fee (pursuant to 37 CFR 1.20(a)); the $130 processing fee (pursuant to 37 CFR 1.17(i)), and apply any additional charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10284-0086002.

Respectfully submitted,

Date: April 27, 2009

/RSMcQuade/
Ryan S. McQuade, Ph.D.
Reg. No. 61,358

Fish & Richardson P.C.
Customer No. 26161
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

22180312.doc

Adjustment date: 10/22/2009 CKHLOK
04/28/2009 INTEFSW 00001131 061050 10831979
01 FC:1811 100.00 CR
02 FC:1808 130.00 CR

10/22/2009 CKHLOK 00000004 061050 7531625
01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

8/26/09

In re Application of:
WRIGHT, DONALD K. et al
Appl. No.: 10/831,989 : DECISION ON PETITION
Filed: April 26, 2004
Attorney Docket No: 21276.00.9107
For: RECLOSABLE FASTENER PROFILE SEAL AND METHOD OF FORMING A FASTENER PROFILE ASSEMBLY

This is a decision on the petition filed on August 5, 2009 by which petitioner requests supervisory review and withdrawal of the finality of the office action dated June 5, 2009. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

A review of the relevant prosecution history shows that the applicant filed a RCE on April 15, 2009 with amendment to claims 1 and 9 and no amendment to non-elected claims 10-15. The RCE was properly filed in accordance with the 35USC 132(b) and MPEP 706.07(h). On June 5, 2009, the examiner issued a first Office action final rejection to the RCE. The examiner finally rejected claims 1-9 under applicable sections of 35 USC 102 and 103 based on the references to Sprehe, US Patent 6,059,457, Anderson, US Pat. 6,033,113and Edelman US Pat. 5,035,517. This final rejection is the first office action based on the three prior art references separately and collectively from the previous final rejection of December 15, 2008. These two final rejections are almost in verbatim. In response to the first Office action final rejection mailed December 15, 2008, the applicant filed a 37 CFR 1.116 amendment on February 18, 2009. The applicant amended claims 1 and 9. Subsequently, on February 27, 2009, the examiner issued an advisory action and indicated the entry of the amendment after final of February 18, 2009 for appeal purposes.

On August 5, 2009, the petitioner filed the current petition requesting supervisory review of the propriety of the final rejection and withdrawal of the finality of the office action dated June 5, 2009. The petitioner is of the opinion that first Office action final rejection of June 5, 2009 was improper under MPEP 706.07(b) because claims filed in the amendment of April 15, 2009 changed the scope of the claims from the previously filed claims so that they are not necessarily drawn to same invention and the claims presented on April 15, 2009 could not have been finally rejected on the grounds and art of record in the next office action if they had been entered in the application earlier under 37 CFR 1.114. The Petitioner also argues that there is no evidence that amended claims in the amendment of April 15, 2009 would have been rejected if they had been presented earlier for further consideration by the examiner.

Analysis of Application Record

In the earlier final rejection of December 15, 2008, three separate prior art references, namely Sprehe, US Patent 6,059,457, Anderson, US Pat. 6,033,113and Edelman US Pat. 5,035,517 were applied against the claims. In response to the advisory action of February 27, 2009, the applicant filed the current RCE with an amendment to amend the independent claims 1 and 9. It should be noted that under MPEP 706.07(h), applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the previously claimed and examined as a matter of right (i.e. applicant cannot switch inventions).

In order to determine whether or not the claims filed earlier on September 5, 2008 and the claims filed with the RCE on April 15, 2009 are directed to the same invention. A comparison of at least the independent claims 1 and 9 must be made.

The finally rejected independent claims 1 and 9 filed on September 5, 2008 in the earlier final rejection of December 15, 2008 are reproduced below.

1. (Currently Amended) A reclosable fastener profile assembly, said assembly comprising: a continuous supply of a first profile strip including at least one rib that extends from the surface of said first strip; a continuous supply of a second profile strip opposite said first strip; said second strip including at least two ribs that extend from the surface of said second strip; said rib of said first strip and said ribs of said second strip adapted to sealingly engage and maintain an airtight seal when so engaged; and a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile: strip and said second strip; said compression molded segment seal ~~including~~ consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling; said fused section substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked.

9. (Currently Amended) A reclosable storage bag comprising: a first bag wall; a second bag wall; and a reclosable fastener profile assembly, said assembly comprising: a first profile strip including at least one rib that extends from the surface of said first strip; a second profile strip opposite said first strip said strip including at least two ribs that extend from the surface of said second strip; said rib of said first strip and said ribs of said second strip adapted to sealingly engage and maintain an airtight seal when so engaged; and a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile strip and said second profile strip; said compression molded segment seal ~~including~~ consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling; said fused section substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked; wherein said first profile strip and said second profile strip are heat sealed to said first bag wall and said second bag wall, respectively.

The claims filed with the RCE on April 15, 2009 are also reproduced below.

1. (Currently Amended) A reclosable fastener profile assembly, said assembly comprising: a continuous supply of a first profile strip including at least one rib that extends from the surface of said first strip; a continuous supply of a second profile strip opposite said first strip; said second strip including at least two ribs that extend from the surface of said second strip; said rib of said first strip and said ribs of said second strip adapted to sealingly engage and maintain an airtight seal when so engaged; and a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile: strip and said second strip; said compression molded segment seal consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling <u>thereby allowing the molded segment seal to retain its cross section;</u> the lower heat causing the section to liquefy and flow into a void between film layers; said fused section substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips Outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked.

9. (Currently Amended) A reclosable storage bag comprising: a first bag wall; a second bag wall; and a reclosable fastener profile assembly, said assembly comprising: a first profile strip including at least one rib that extends from the surface of said first strip;

a second profile strip opposite said first strip said strip including at least two ribs that' extend from the surface of said second strip; said rib of said first strip and said ribs of said second strip adapted to sealingly engage and maintain an airtight seal when so engaged; and a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile strip and said second profile strip; said compression molded segment seal consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling thereby al]owing the molded segment seal to retain its cross section; the lower heat causing the section to liquefy and flow into a void between film layers; said fused section substantially flattened to form an airtight seal of said first mad second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked; wherein said first profile strip and said second profile strip are heat sealed to said first bag wall and said second bag wall, respectively.

In comparison of claim 1 of the amendments filed September 5, 2008 and April 15, 2009, the claims basically remain directed to a reclosable fastener profile with continuous supplies of a first profile strip and a second profile strip and a compression molded segment. Claim 1 of September 5, 2008 contains a compression molded segment seal consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling; said fused section substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked. Claim 1 of April 15, 2009 was narrower than claim 1 of September 5, 2008. The applicant added the limitations regarding "relatively increased pressure and cooling thereby allowing the molded segment seal to retain its cross section; the lower heat causing the section to liquify and flow into a void between film layers". After a careful analysis of both claims, claims do required same search fields and belong to same classification. Therefore, it is concluded that both claim ones are not independent and distinct from each other and are directed to the same invention with different scopes.

In comparison of claim 9 of the amendments filed September 5, 2008 and April 15, 2009, the claims basically remain directed to a reclosable fastener profile with continuous supplies of a first profile strip and a second profile strip and a compression molded segment. Claim 9 of September 5, 2008 contains a compression molded segment seal consisting essentially of a fused section of said first and second profile strips formed through the application of relatively lower heat as compared to conventional heat sealings and relatively increased pressure and cooling; said fused section substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked. Claim 9 of April 15, 2009 was narrower than the claim 9 of September 5, 2008. The applicant added the limitations regarding "relatively increased pressure and cooling thereby allowing the molded segment seal to retain its cross section; the lower heat causing the section to liquify and flow into a void between film layers". After a careful analysis of both claims, claims do required same search fields and belong to same classification. Therefore, it is concluded that both claim nines are not independent and distinct from each other and are directed to the same invention with different scopes.

In order to determiner whether or not the final rejection given on June 5, 2009 was proper, a comparison with the previous final rejection of December 15, 2008 must be made. It is noted that the examiner maintained his rejection on June 5, 2009. Both final rejections of December 15, 2008 and June 5, 2009 were almost identical. In both rejections, the rejection of claims 1-9 were

based on the three prior art references, Sprehe, US Patent 6,059,457, Anderson, US Pat. 6,033,113 and Edelman US Pat. 5,035,517, separately and collectively. However, it is noted that in the final rejection of June 5, 2009, in responding to the applicant's added limitations in claims 1 and 9 of April 15, 2009, the examiner did mention that the heat and pressure would inherently allow the molded segment seal to retain its cross section. In view of the applicant's amendment of April 15, 2009 which changed the scope of the claims, the examiner pointed out this inherency of the Anderson patent. The examiner's comment regarding inherency also does not constitute new grounds of rejection.

Based on the analysis of record, when the examiner promulgated the first office action final rejection of June 5, 2009, the conditions set forth in MPEP 706.07(b)[1] were met. In particular, the claims in the amendment of April 15, 2009 in fact are directed to the same invention of the claims in the earlier amendment as indicated by the contents of the claims, supra. The claims in the amendment of April 15, 2009 would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered earlier. Therefore, under MPEP 706.07(b) the first action final rejection appears to be proper.

For the foregoing reasons it appears that the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the April 15, 2009 Office action final. Therefore, there is no basis for granting any of the relief requested.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3782 for consideration of the Rule 1.116 amendment of August 5, 2009. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED.

Robert Olszewski, Director
Technology Center 3700

---

[1] **706.07(b) Final Rejection, When Proper on First Action [R-1]**

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. A first Office action in a continuing or substitute application may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102 (e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)). However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised. Further, it would not be proper to make final a first Office action in a continuation-in-part application where any claim includes subject matter not present in the earlier application. A request for an interview prior to first action on a continuing or substitute application should ordinarily be granted.

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YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084-3107

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SEP 10 2008

In re Application of :
Norman D. Cook, et al. :
Application No. 10/831,992 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. EIS-215-A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 14, 2007. The Notice of Abandonment was mailed November 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; 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 2833 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

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INEOS USA LLC
Central Park of Lisle
4225 Naperville Road S/600
Lisle IL 60532

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Brooks et al. :
Application No.10/832,007 : DECISION ON PETITION
Filed: April 26, 2004 :
Title of Invention: High Clarity Formed :
Articles of Polypropylene

This is a decision on the petition under 37 CFR §1.137(b), filed December 18, 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 May 31, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on September 5, 2006 (certificate of mailing August 31, 2006). In response to the amendment an Advisory Action was mailed on September 25, 2006 indicating the amendment submitted on September 5, 2006 did not place the application in condition for allowance. Accordingly, this application became abandoned on September 1, 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 RCE and the amendment submitted with the instant petition will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of Pan et al.
Application No. 10/832,009
Filing Date: April 26, 2004
Attorney Docket No. TI-36866

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed April 24, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

Facts:

The Office mailed a non-final Office action on July 19, 2007, which set a three-month shortened statutory period for reply.

The Office's electronic file wrapper for the application includes a reply and payment for a three-month extension of time filed on January 21, 2008. Since January 19, 2008, was a Saturday, and January 20, 2008, was a Sunday, the January 21, 2008 reply was timely.

The Office issued a Notice of Abandonment on February 27, 2008. The Notice stated the application was abandoned due to a failure by petitioner to reply to the July 19, 2007 Office action.

The instant petition was filed April 24, 2004. The petition requests the Office withdraw the holding of abandonment because a reply was timely filed in response to the July 19, 2007 Office action.

Discussion:

The record clearly demonstrates petitioner timely filed a reply to July 19, 2007 Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2814 will be informed of the instant decision and the application, including the amendment filed January 21, 2008, 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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JUL 28 2004

In re Application of	:	
Steven F. Willits et al.	:	
Serial No. 10/832,015	:	DECISION ON PETITION
Filed: April 26, 2004	:	TO MAKE SPECIAL
For: APPARATUS AND METHOD FOR: MAKING ARTICLES FROM FLAT: STOCK MATERIAL	:	

Applicant's petition, filed May 18, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Robert A. Brown
P.O. Box 2127
Northbrook, IL 60065-2127

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STEPHEN B. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2711

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OFFICE OF PETITIONS

In re Application of

EICHENLAUB, Jesse B.
Application No. 10/832,029
Filed: April 26, 2004
Attorney Docket No. **85953.000090**

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 16, 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, we no longer represent this client, 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: **ARONLD LAGERGREN**
DIMENSION TECHNOLOGIES, INC.
315 MT. READ BLVD.
ROCHESTER, NY 14611

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DANIEL S. POLLEY, P.A.
1215 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FL 33301

In re Application of :
Iulius Vivant DUTU :
Application No. 10/832,050 : DECISION ON PETITION
Filed: April 26, 2004 : TO MAKE SPECIAL
For: **KEYLESS SYSTEM FOR ENTRY AND OPERATION OF A VEHICLE** :

This is a decision on the petition filed June 9, 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.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Boris Weissman	: DECISION ON REQUEST FOR
Patent Number	: 7590982	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1542** 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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LOEFFLER JONAS & TUGGEY, LLP
755 EAST MULBERRY STREET
SUITE 200
SAN ANTONIO, TX 78212

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OFFICE OF PETITIONS

In re Application of :
Fernando Palafox, Sr. :
Application No. 10/832,084 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 80205.00018 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed December 14, 2005. A Notice of Abandonment was mailed on June 27, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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, specification and terminal disclaimer under 37 CFR 1.321 with the $65 fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1712 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Hilliard B. Siegel	: DECISION ON REQUEST FOR
Patent Number	: 7627530	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** 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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270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

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In re Application of :
Vicente Diaz Fuente, et al. :
Application No. 10/832,128 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 4093/044 :

This is a decision in response to the petition, filed August 8, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 19, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 20, 2007. A Notice of Abandonment was mailed on February 21, 2008. On August 8, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received August 8, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NEW YORK, NY 10016-0601

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OFFICE OF PETITIONS

In re Application of :
Vicente Diaz FUENTE :
Application No. 10/832,128 : DECISION GRANTING PETITION
Filed: April 26, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **4093/044** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of :
Terry Wayne Stone :
Application No. 10/832,129 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 94.0036/CIP (GEOA,139/CIP :

This is a decision on the petition, filed July 3, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed February 7, 2006. A Notice of Abandonment was mailed on June 22, 2006. In response, on July 3, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed July 3, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Timothy T. Patula
Patula & Associates, P.C.
14th Floor
116 S. Michigan Ave.
Chicago IL 60603

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In re Application of :
GICHUHI et al. :
Application No. 10/832,139 : DECISION ON PETITION
Filed: 04/26/2004 :
Attorney Docket No. 5348/55398 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 19, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee and publication fee on or before April 22, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 22, 2008. On May 16, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that petitioner did not receive the Notice of Allowance and Fee(s) Due.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw

the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the docket report where the Notice of Allowance and Fee(s) Due would have been entered had it been received and docketed. The practitioner explained how Office communications are docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice was not received at the correspondence address of record. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

This application is being referred to the Technology Center AU 1793 technical support staff for re-mailing the Notice of Allowance and Fee(s) Due. The period for reply will be reset to expire three (3) months from the date the Notice is re-mailed.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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RANDALL L. OWEN
11523 TREEVIEW COURT
MOORPARK, CA 93021

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Leonard Rothmann	:	DECISION ON REQUEST
Application No. 10/832,146	:	TO WITHDRAW FROM
Filed: April 24, 2004	:	RECORD
Attorney Docket No. LR-200401	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on March 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

The request was signed by Randall L. Owen, the sole attorney or agent of record.

Randall L. Owen has been withdrawn as attorney or agents of record. Therefore, applicant is reminded that there is no attorney or agent of record at this time.

All future correspondence will be directed to the sole inventor, Leonard Rothmann, at the address indicated below.

This application file is being referred to Technology Center Art Unit 2873, for review of the response to the Office action filed May 22, 2006.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Leonard Rothmann
23785 Western Cedar Court
Valencia, CA 91354

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OFFICE OF PETITIONS

THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND, CA 94623-1305

In re Application of :
Michael G. Borchardt et al :
Application No. 10/832,154 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 492.07 :

This is a decision on the renewed petition, filed September 4, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 21, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 21, 2007.

Petitioner asserts that the Notice dated November 21, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3782 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of November 21, 2007. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Irvin Dingle
Petitions Examiner
Office of Petitions

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THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND CA 94623-1305

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of
Michael G. Borchardt et al.
Application No. 10/832,153
Filed: April 26, 2004
Attorney Docket No. 492.11a

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 31, 2005.

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 26, 2004, without an executed oath or declaration.

Accordingly, on June 30, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring, *inter alia*, an executed oath or declaration, and a surcharge for its late filing.

In response, the instant petition under 37 CFR 1.47(a), and (a) the required petition fee and surcharge for late filing; (b) request and payment of the fee for a five (5) month extension of the time for reply to the Notice to File Missing Part, and a declaration signed by joint inventor Borchardt on behalf of himself and joint inventor Kamp was filed.

Petitioners assert that joint inventor Kamp is now deceased, having died in 1988 prior to the filing of the instant application, and that the known legal representative, Mr. Kamp's wife, died in 2001. Further, petitioners assert that no legal representative could be located.

37 CFR 1.42 states, in part:

> In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, 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 present petition lacks items (1), (2) and (4).

At the outset, petitioners are advised that 37 CFR 1.47 is not considered an alternative to 37 CFR 1.42 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor.[1] 37 CFR 1.42 states that when the inventor is dead, the legal representative may make the necessary oath or declaration. 37 CFR 1.47 will apply when a known legal representative cannot be found or refuses to sign the declaration. In such cases, the last known address of the legal representative must be established before the grant of a patent.[2] Presumably a legal representative has been named to the estate of the survivors of the deceased inventor, specifically the estate of Mrs. Adele Kamp.

To establish 37 CFR 1.47 status, petitioner must submit a 37 CFR 1.47 petition on behalf of the legal representative of the deceased inventor.

In regards to item (1), the mere statement that a legal representative could not be located, without proof of the efforts used to identify a legal representative, is insufficient to show that a diligent effort was made to locate Kamp's legal representative. Where inability to find or locate a named inventor(s), or legal representative thereof, is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) 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. Petitioners should demonstrate that a thorough inspection of sources

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[1] *In re Application Papers Filed September 10, 1954*, 108 USPQ 340 (Comm'r Pat. 1955).

[2] See 37 CFR 1.42.

including, but not limited to, personnel or payroll records and probate filings. In this case, a thorough search of probate filings for Mr. Ewald Kamp and Mrs. Adele Kamp would be appropriate. Petitioners should use diligent efforts to determine the current or last known address of the nearest living relative of the deceased inventor. Copies of the results of the search must be referred to in any renewed petition.[3]

Additionally, Kamp's legal representative or heirs will have to be proffered the complete application papers (specification, including claims, drawings, if any, and the declaration) for signature.[4] In the event that the legal representative or heirs refuse to sign the declaration, petitioners may provide proof that a copy of the application was sent or given to the legal representative for review by providing, with a renewed petition, a copy of the cover letter transmitting the application papers to the legal representative or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

In the event that Kamp's legal representative refuses in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. 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.

In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, containing the information described in this paragraph, is required.

In reference to item (4), above, the petition must include the last known address of the legal representative of the deceased joint inventor.

As well, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 03-2270 has been charged in the amount of $200.00 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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS

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[3] See MPEP 409.03(d).

[4] See also MPEP 409.01(a),(b); 409.03(c).

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND CA 94623-1305

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OFFICE OF PETITIONS

In re Application of
Michael G. Borchardt et al.
Application No. 10/832,153
Filed: April 26, 2004
Attorney Docket No. 492.11a

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed August 8, 2005, under 37 CFR 1.47(a).

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 26, 2004, without an executed oath or declaration. Accordingly, on June 30, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring, *inter alia*, an executed oath or declaration, and a surcharge for its late filing. In response, on January 31, 2005, a petition under 37 CFR 1.47(a), and (a) the required petition fee and surcharge for late filing; (b) request and payment of the fee for a five (5) month extension of the time for reply to the Notice to File Missing Part, and a declaration signed by joint inventor Borchardt on behalf of himself and joint inventor Kamp was filed. The petition was dismissed in a decision mailed June 8, 2005 because while petition asserted that joint inventor Kamp and his legal representative, Adele Kamp, were both deceased, petitioners asserted that no legal representative could be located.

Comes now petitioner with an oath or declaration executed by Peggy Golden, the legal representative of Adele Kamp, signing the oath or declaration on behalf of the deceased inventor.

37 CFR 1.42 states, in part:

> In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, 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 present petition still lacks items (1), (2) and (4).

37 CFR 1.47 will apply when a known legal representative cannot be found or refuses to sign the declaration. In such cases, the last known address of the legal representative must be established before the grant of a patent.[1]

To establish 37 CFR 1.47 status, petitioner must submit a 37 CFR 1.47 petition on behalf of the legal representative of the deceased inventor.

In the decision mailed June 8, 2005 where it was stated, "Presumably a legal representative has been named to the estate of the survivors of the deceased inventor, specifically the estate of Mrs. Adele Kamp," it was not suggesting that a legal representative for Mrs. Adele Kamp would satisfy the requirements under 37 CFR 1.42 and could also serve as the legal representative for the deceased inventor.

Unless it can be shown that Peggy Golden (nee Kamp) is the legal representative for the deceased joint inventor, Ewald Kamp, or the heir or close living relative of Mr. Kamp, the oath or declaration submitted with the instant request for reconsideration is unacceptable.

Additionally, in regards to item (1), if in fact the legal representative or heirs of Ewald Kamp are identified, they will have to be proffered the complete application papers (specification, including claims, drawings, if any, and the declaration) for signature.[2] In the event that the legal representative or heirs refuse to sign the declaration, petitioners may provide proof that a copy of the application was sent or given to the legal

---

[1] See 37 CFR 1.42.

[2] See also MPEP 409.01(a),(b); 409.03(c).

representative for review by providing, with a renewed petition, a copy of the cover letter transmitting the application papers to the legal representative or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

In the event that Kamp's legal representative refuses in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. 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.

The request for reconsideration and statement by Adam Brink indicates that Adele Kamp's legal representative was contacted and the declaration was executed but there is no proof that the complete application was forwarded for review.

If it is determined that Peggy Golden, is not a proper party to sign the oath or declaration, in regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor.

In reference to item (4), above, the petition must include the last known address of the legal representative of the deceased joint inventor.

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 fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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1221 BROADWAY #2344
OAKLAND CA 94623-1305

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OFFICE OF PETITIONS

In re Application of
Michael G. Borchardt et al.
Application No. 10/832,153
Filed: April 26, 2004
Attorney Docket No. 492.11a

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

Petitions under 37 CFR 1.47(a) were filed January 31, 2005 and August 8, 2005 and were dismissed in decisions mailed June 8, 2005 and September 6, 2005, respectively.

Papers filed October 28, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed September 6, 2005, included a declaration signed by the previously non-signing legal representative, Peggy A. Golden (nee Kamp), on behalf of deceased inventor Ewald Kamp and in compliance with 37 CFR 1.63.

In view of the joinder of the legal representative, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed October 28, 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 3727 and examination of the application will occur in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND, CA 94623-1305

In re Application of :
Michael G. Borchardt et al :
Application No. 10/832,154 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 492.07 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed December 18, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on January 19, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3782 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OAKLAND, CA 94623-1305

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Michael G. Borchardt et al :
Application No. 10/832,154 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 492.07 :

This is a decision on the petition, filed May 9, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 21, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 21, 2008.

Petitioner asserts that the Notice dated November 21, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy number two of the above-stated requirements. In this regard, a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1540 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).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND, CA 94623-1305

In re Application of :
Michael G. Borchardt et al :
Application No. 10/832,154 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 492.07 :

This is a decision on the renewed petition, filed September 4, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 21, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 21, 2007.

Petitioner asserts that the Notice dated November 21, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3782 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of November 21, 2007. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 05/11/2010

Applicant	: Neil P. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7657741	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/832,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1115** 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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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION – WEST BLDG.
WINTON HILL BUSINESS CENTER – BOX 412
6250 CENTER HILL AVENUE
CINCINNATI , OH 45224

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JUN 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Aleksey Mikhailovich PINYAYEV, et al	:	
Application No. 10/832,168	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 9357M	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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 $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3732 for appropriate action by the Examiner in the normal course of business on the reply received April 18, 2008.

April Wise
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/18/04

Kevin W. King
Sutherland Asbill & Brennan LLP
999 Peachtree Street
Atlanta, GA 30309

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/832175 received on 06/08/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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TC 3600

RADER, FISHMAN & GARAUER PLLC
10653 South River Front Parkway
Suite 150
South Jordan, UT 84095

In re application of
Fred E. Holmstrom et al
Application No. 10/832,180
Filed: April 26, 2004
For: ANTI-RATTLE DEVICE FOR A POCKET DOOR ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 26, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a driver's license and a declaration signed by Mr. Holmstrom indicating that he is at least 65 years of age and a copy of

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **Granted.**

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/05/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen E. Amett
PERKINS COIE LLP
P.O. Box 1247
Seattle WA 98111-1247

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael James Walton, et al.	:	
Application No. 10/832,193	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 64138005US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 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 5, 2007, as required by the Notice of Allowance and Fee(s) Due mailed June 5, 2007. Accordingly, the date of abandonment of this application is September 6, 2007. The Notice of Abandonment was mailed 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 payment of the issue fee of $1,400, (2) the petition fee of $1,540; 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 the Office of Data Management for processing into a patent.

Chris Bottorff
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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GEZA C. ZIEGLER, JR.
PERMAN & GREEN, LLP
425 POST ROAD
FAIRFIELD CT 06824

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of
Michael Sattlegger et al.
Application No. 10/832,205
Filed: March 26, 2004
Attorney Docket No: **785-011780-US (C01)**

ON PETITION

This is a decision on the petition filed December 22, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on May 2, 2006, for failure to file a timely response to the Restriction Requirement mailed March 31, 2006. A one month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on November 30, 2006.

Petitioner asserts that a response to the Office Action was filed on May 31, 2006 with a one month extension of time request and a certificate of mail date May 31, 2006, but that due to a typographical error, the application serial number was incorrectly identified on the response and thus not properly and timely applied.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched at the time of receipt. Petitioners argue also that the response was ultimately matched by the USPTO and moved to the correct file, although after the due date.

In view of the evidence submitted, it can be concluded that a response to the Office Action was in fact timely filed.

Accordingly, the Notice of Abandonment mailed November 30, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1624 for a review of the response filed May 31, 2006 and resubmitted with the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 22 2006

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:
Vikram Khetani et al	:
Serial No.: 10/832,210	: PETITION DECISION
Filed: April 26, 2004	:
Attorney Docket No.: CELG-0368	:

This is a response to the petition under 37 CFR 1.59(b), filed October 27, 2006, to expunge information from the above identified application. The application has been assigned to an examiner, but has not been acted on at the present time.

Petitioner requests that the Proprietary Information Disclosure Statement, filed September 14, 2005, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an unexamined application. As such the information provided has not been reviewed by the examiner and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, 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 general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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APR 24 2009

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of :
Khetani et al.
Serial No.: 10/832,210
Filed: April 26, 2004
Attorney Docket No.: **CELG-0368**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed March 18, 2009, to expunge information from the above identified application. This application has been abandoned.

Petitioner requests that the information submitted in a sealed envelope, filed October 27, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been previously 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.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/18/04

Stephanie M. Mansfield
Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/832213 received on 06/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

10832,215

PATENT NO.: 6,967,376

DATED: November 22, 2005

INVENTOR(S): Stephen R. Fox et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6, Line 48
"or greater, wash an oxygen" should read --or greater, with an oxygen--

Title Page: [75]
Missing Inventors:

Maurice H. Norcott, San Jose, CA
Siegfried L. Maurer, Stromville, NY

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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SQUIRE, SANDERS & DEMPSEY L.L.P.
8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA, VA 22182-6212

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JAN 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,985,821 :
Issue Date: January 10, 2006 :
Application No. 10/832,236 : NOTICE
Filed: April 27, 2004 :
Attorney Docket No. 62533.00011 :

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.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kendal M. Sheets 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. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Sheets, 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.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KENDAL SHEETS
COMPUTER PATENT ANNUITIES NORTH AMERICA
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OCT 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Yukiya Nakagawa :
Application No. 10/832,256 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 107156-002388 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.18, filed July 17, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 14, 2006, after it was believed that no response was received to the election/restriction requirement mailed December 13, 2005. The notice allowed a shortened statutory period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on July 6, 2006, indicating that a reply to the notice of December 13, 2005, was not received.

The instant petition maintains that the response to the election/restriction requirement was timely filed. A copy of the response with a copy of the Office date-stamp postcard whereby the Office acknowledged having received the response on January 12, 2006, accompanied the petition. The abandonment is being withdrawn on the basis of the Office date-stamped postcard receipt.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 1700, GAU 1772 for further processing, including processing of the copy of the election filed July 17, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

DATE 8/30/07

APPLICATION NUMBER 10/832,256

DOC CODE PET.DEC

DOC DATE 8/30/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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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meb

Mailed: 8-30-07

In re application of	:	
Yukiya Nakagawa	:	DECISION ON
Serial No. 10/832,256	:	PETITION
Filed: April 27, 2004	:	
For: DECORATIVE SHEET	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, dated August 13, 2007.

On January 10, 2007 a non-final Office action was mailed to applicants. The Office action contained a rejection of claims 1-4 under 35 USC 102 (b) over Suess et al. A reply to the Office action was filed on April 6, 2007. In the reply, an amendment to claim 1 was made. The amendment specified that the metal exposed layer, which can be oxidized, be exposed to the atmosphere, which overcame the rejection to the claims over the Suess et al. reference.

On July 10, 2007, a final Office action was mailed. All previous grounds of rejection were withdrawn and a new grounds of rejection was added which included rejection of claims 1-4 under 35 USC 102 (b) over Kacic. The examiner stated in the office action that the new grounds of rejection was necessitated by Applicant's amendments to the claims and the Office action was made final. On August 13, 2007, the present petition was filed.

Petitioner has argued that the finality of the last Office action is improper. Petitioner argues that no amendment by Applicant necessitated a further search of the prior art and the reference newly identified and applied by the Examiner could have been identified in the original search and applied in the first Office Action and further, that the claims were amended in a manner that could have been reasonably expected by the scope of the specification. The Petitioner argues that the amendment was merely clarifying in nature and did not alter the scope of the claims, in that "exposed" is defined in the specification as a surface that is open to the atmosphere. That "exposed" means open to the atmosphere is evident throughout the specification and the function of the claimed invention requires exposure to the atmosphere.

DECISION

As set forth in the petition, the standard for making an Office action final is set forth in section 706.07(a) of the MPEP which states:

> A second or any subsequent action on the merits in any application...should not be made final if it includes a rejection, on prior art of record, of any claim amended to include limitations which should reasonably have been expected to be claimed.

In this case, the amendments presented necessitated the new grounds of rejection in that the aforementioned limitation was not previously claimed or addressed. However, looking at pages 8-9 and 13 of the instant specification, it is clear that the newly added limitation is a critical feature of applicant's invention. It should have been reasonably expected for such an amendment to have been claimed, therefore the final rejection of July 10, 2007 should not have been made final.

The Petition is **GRANTED**.

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response to the July 10, 2007 office action continues to run. Extensions of time may be obtained to file any amendments. Such amendments will be treated as an amendment under 37 CFR 1.111 or 1.112 and will be entered.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kurt Buechle
ARENT FOX PLLC
1050 CONNECTICUT AVE., N.W.
SUITE 400
WASHINGTON, DC 20036-5339

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Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of :
Fitz :
Application No. 10/832,273 : DECISION ON PETITION
Filed: April 27, 2004 : TO WITHDRAW
Attorney Docket No. 2004-0578A : 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.

There is an outstanding Office action mailed July 6, 2005 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 2 1 2010

Brian K. Dutton
RADER, FISHMAN & GRAUER PLLC
1233 20th Street NW., Suite 501
Washington DC 20036

In re Application of	:	
Ieyasu KOBAYASHI et al.	:	DECISION ON PETITION
Application No. 10/832,279	:	UNDER 37 CFR §1.181
Filed: April 27, 2004	:	
For: POLYESTER FILM ROLL	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed on December 23, 2009 to withdraw the rejection of claims 25, 28-40, and 43-50 in the non-final Office action of September 29, 2009 because the rejection used the same references as the rejection that has already been reversed by the Board of Patent Appeals and Interferences(the Board).

The Petition is **DENIED.**

Applicant alleges that the rejection of claims 25, 28-40, and 43-50 in the Office action of September 29, 2009 used the same references that has previously been applied in a rejection and subsequently reversed by the Board in a decision on appeal of May 7, 2009 and, therefore, should be withdrawn.

A review of the record shows that in the examiner's answer dated January 8, 2008, claims 25, 28-40, and 43-50 were rejected under 35 U.S.C. 103(a) over U.S. Patent 4,576,344 to Sasaki et al. in view of U.S. Patent 5,088,207 to Betsill et al. This rejection was reversed in the Board's decision of May 7, 2009. Prosecution was reopened and a non-final rejection was issued on September 29, 2009. This non-final rejection included four grounds of rejection:

1. Claims 25, 30, 40, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al (U.S. Patent No. 4,576,344).

2. Claims 28-29, 31-39, and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. in view of Hatanaka et al (U.S. Patent No. 5,399,407).

3. Claims 25, 30, 40, and 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al (U.S. Patent No. 4,576,344) in view of Betsill et al (U.S. Patent No. 5,088,207).

4. Claims 28-29, 31-39, and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al in view of Betsill et al., and further in view of Hatanaka et al (U.S. Patent No. 5,399,407).

As shown above, three (1, 2, and 4) of the four grounds of rejection were new rejections. The one ground of rejection (3) which used the Sasaki et al and Betsill et al references together actually relied on different portions of those references and included different interpretation, and reasoning as compared to the rejection in the examiner's answer and, therefore, constituted a new ground of rejection. Since the four grounds of rejection are new or different from the rejection that was reversed by the Board, applicant's allegation that they have already been adjudicated and therefore should be withdrawn is not persuasive.

SUMMARY: The Petition is **DENIED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner John Q. Nguyen at 571-272-6952.

David Talbott, Director
Technology Center 3600
571-272-5150

Jqn/lm: 3/17/10
LM

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LEONG C LEI
PMB 1008
1867 YGNACIO VALLEY RD
WALNUT CREEK CA 94598

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OFFICE OF PETITIONS

In re Application of :
Robert Leu :
Application No. 10/832,304 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. FP10136 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 23, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed December 16, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on March 17, 2005. A Notice of Abandonment was mailed on June 27, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 1744 for consideration of the amendment filed March 23, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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ANTONELLI, TERRY, STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Hiroki Yamamoto et al :
Application No. 10/832,310 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 500.41737CX1 :

This is a decision on the petition, filed March 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1774 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hiroki Yamamoto et al
Application No. :10/832,310
Filed :April 27, 2004

The above-identified application has been assigned Patent No. 6,875,490 and an issue date of April 5, 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 5, 2005:

"All reference to Patent No. 6,875,490 to Hiroki Yamamoto of Japan for NONLINEAR OPTICAL THIN FILM, OPTICAL RECORDING MEDIUM USING NONLINEAR OPTICAL FILM AND OPTICAL SWITCH appearing in the Official Gazette of April 5, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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NOV - 4 2006

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of:
HISAMITSU, YASUSHI
Serial No.: 10/832,360
Filed: April 27, 2004
Docket: 1579.1008
Title: IMPACT CRUSHING APPARATUS FOR GRAIN

Withdrawal Holding of Abandonment

Art Unit 3725

This is a decision on petitioner's request filed Oct. 19, 2006 and three supporting declarations to review the holding of abandonment, mailed Sep. 18, 2006 for failure to respond to the Office action of Feb. 13, 2006. In particular, the failure to respond was due to the non-receipt of the Office action of Feb. 13, 2006.

In support of the request, petitioner stated that the office action of Feb. 13, 2006 was never received at the correspondence address of record. The petition also included declarations by Joseph Berry, Docketing Manager, stated that a check and review of the file for such non-received Office action was made as shown by the two-page print out of the Patent Application Print and docket records as shown by the print out of Patents USPTO Incoming Mail Log which also indicate 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 was attached.

In order to grant a petition to withdraw holding of abandonment, the section under Petition To Withdraw Holding of Abandonment Based on Failure To Receive of MPEP 711.03(b) requires the showing to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In view of the above, the Notice of Abandonment mailed Sep. 18, 2006is hereby vacated. The holding of abandonment is withdrawn. A copy of the Office action will be mailed in due course. The previously set period for response will be restarted.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3725 for further process. Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

Summary: Holding of Abandonment Withdrawn.

Frederick R. Schmidt, Director
Technology Center 3700

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Rehtanz et al. :
Application Number: 10/832397 : ON PETITION
Filing Date: 04/27/2004 :
Attorney Docket Number: 004501-769 :

This is a decision on the petition to withdraw holding of abandonment, filed on 26 April, 2007.

This application became abandoned on 3 February, 2007, for failure to timely submit the issue and publication fees, in response to the Notice of Allowance and Fee(s) Due, and corrected drawings, in response to the Notice of Allowability, both mailed on 2 November, 2006, which set a three (3) month statutory period for reply. On 27 February, 2007, a Notice of Abandonment was mailed.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Notices mailed on 2 November, 2006. In support, petitioners have submitted a statement by the practitioner that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due mailed 2 November, 2006, was never received. A marked-out copy of a docket report has also been submitted.

A review of the record indicates no irregularity in the mailing of the Notices mailed on 2 November, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notices were properly mailed to the address of record. This presumption may be overcome by a showing that the Notices were not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached

to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Specifically, petitioners have completely obscured all but one entry on the five (5) pages of docket report presented. While the Office is mindful that petitioners may wish to redact certain information to safeguard clients' privacy, at least **some** of the information contained in the docket report (*e.g.*, the docket number, application number, or other information) must be legible such that the Office may verify that the subject Notice was not docketed. The showing of record, however, does not provide the requisite documentary proof of non-receipt of the Notices mailed on 2 November, 2006.

Petitioners should submit, with a renewed petition, a docket report showing 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.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

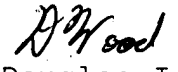
[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
Rehtanz et al. :
Application Number: 10/832397 : ON PETITION
Filing Date: 04/27/2004 :
Attorney Docket Number: 004501-769 :

This is a decision on the renewed petition to withdraw holding of abandonment, filed on October 10, 2007.

This application became abandoned on February 3, 2007, for failure to timely submit the issue and publication fees, in response to the Notice of Allowance and Fee(s) Due, and corrected drawings, in response to the Notice of Allowability, both mailed on November 2, 2006, which set a three (3) month statutory period for reply. On February 27, 2007, a Notice of Abandonment was mailed. A petition to withdraw the holding of abandonment was filed on April 26, 2007, and was dismissed on August 16, 2007.

In the present petition, petitioners again request that the Office withdraw the holding of abandonment due to non-receipt of the Notices mailed on November 2, 2006. In support, petitioners have submitted a statement by the practitioner that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due mailed November 2, 2006, was never received. A copy of counsel's docket reports has also been submitted.

A review of the record indicates no irregularity in the mailing of the Notices mailed on November 2, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notices were properly mailed to the address of record. This presumption may be overcome by a showing that the Notices were not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have

been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The petitioner has made a sufficient showing of nonreceipt of the Office action. As such, there was no abandonment in fact.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

It is noted that applicant has filed a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS), with the petition filed on April 26, 2007. Receipt of the six (6) sheets of replacement drawings filed with the present renewed petition is also acknowledged.

The application file is being referred to Technology Center Art Unit 2125 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

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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JJGJR.: 03-05

Paper No. __

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Mettrie, et al. :
Application No. 10/832,399 : DECISION ON PETITION
Filed: 27 April, 2004 :
Attorney Docket No. 05725.0407-02 :

This is a decision on the petition under 37 C.F.R. §1.53, filed on 30 September, 2004, requesting that page 5 of the specification (description and claims), be accorded a filing date of 27 April, 2004, with the above-identified application .

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

The application was deposited on 27 April, 2004.

On 30 July, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items" and therein indicated that page 5 of the specification (description and claims) appeared to be omitted from the application. The Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with the drawings; (b) file the drawings and accept their deposit date as the filing date of the application; or (c) prosecute the application as deposited on 27 April, 2004.

On 30 September, 2004, Petitioner filed the instant petition and: (a) alleged therein that page 5 (description and claims) was submitted as evidenced by a copy of the receipt card submitted with the petition, and (b) submitted a copy of page 5 (description and claims).

ANALYSIS

A review of the record evidences that:

- the application was deposited on 27 April, 2004;

- Petitioner's date-stamped ("APR 27 2004") itemizes the papers received by the Office, *inter alia*:

* * *

2. Rule 53(b) Continuation Application Transmittal Letter (4 pages)
3. Preliminary Amendment (8 pages)
4. Copy of originally filed Application Serial No. 09/832,877 (37 pages) (emphasis added)

* * *

- the papers previously acknowledged as received included the sequentially numbered pages of the specification (1 - 4, 6 - 30) and the claims (31 - 36), along with a single, un-numbered page of abstract, totaling 36 pages;

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including page 5 (description and claims), was deposited with the Office on 27 April, 2004, and page 5 (description and claim) subsequently was misplaced in the Office.

The petition is **granted**, the petition fee waived, and the petition fee ($130.00) will be refunded via Treasury check.

The "Notice of Omitted Items" mailed on 30 July, 2004, was sent in error and is hereby vacated.

This application is released to OIPE for further processing with a filing date of 27 April, 2004, for the entire application and in particular for page 5 (description and claims), using:

- **the 36 pages of specification (description, claims and abstract), along with 7 pages of preliminary amendment, deposited on 27 April, 2004; and**

- **page 5 (description and claims) deposited on 30 September, 2004; and**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 27 April, 2004, and reflecting therein that 37 pages of specification (description, claims and abstract) were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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NOV 0 2 2005

OFFICE OF PETITIONS

Applicant: De La Mettrie et al.
Appl. No.: 10/832,399
Filing Date: April 27, 2004
Title: OXIDIZING COMPOSITION AND USES FOR DYEING, FOR PERMANENTLY RESHAPING OR FOR BLEACHING KERATIN FIBRES
Attorney Docket No.: 05725.0404-02000
Pub. No.: US 2005/0150060 A1
Pub. Date: July 14, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on September 14, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as the Office published the wrong specification because a substitute specification and a preliminary amendment were submitted to the Office.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake with respect to the preliminary amendment to priority information printed on the first page of the specification and the substitute specification. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment in the publication by the Office because patent application

[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).

publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendments to the specification filed May 19, 2004 and March 15, 2005, do not comply with 37 CFR 1.125(b). The substitute specification submitted by Applicant did not comply with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a) and the priority information was included on the front page of the publication.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

It would greatly benefit the Office if applicant did not provide a copy of the substitute specification and preliminary amendment previously filed by Applicant with the request for a corrected publication, as the Office already has a copy in the application file and it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need

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[2]Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

Applicant's request for a corrected patent application publication on September 14, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

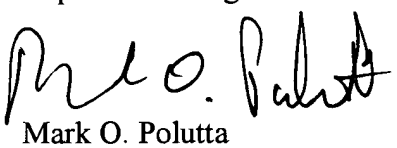
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of 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 O. Polutta at (571) 272-7709.



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,524,466	:	
Ronald Long	:	DECISION ON REQUEST
Issue Date: April 28, 2009	:	FOR
Application No. 10/832,401	:	RECONSIDERATION OF
Filed: April 27, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. LONG24	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed March 17, 2009, and the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed June 29, 2009. Patentees assert that the patent term adjustment indicated on the patent should be corrected from nine hundred (900) days to one thousand two hundred ninety-seven (1,297) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request for deferral/delay of decision under 37 CFR §1.705(d) is **DISMISSED**.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,524,466, with a revised Patent Term Adjustment of 900 days. An application for patent term adjustment was filed along with payment of the issue fee on March 17, 2009. As this application for patent term adjustment requested correction of the patent term adjustment solely on the basis that the Office would take in excess of three years to issue the patent,

it was subject to being dismissed as premature[1]. However, prior to a decision being rendered, on April 28, 2009, the application matured into a patent. The request for reconsideration filed June 29, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A)&(B) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that in this patent the total non-overlapping PTO delay under §154(b)(1)(A) is 1401 days. Therefore, patentee argues that given the total applicant delay of 104 days, the final PTA determination is 1,297 days.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b) and implementing regulation 37 CFR 1.702(b), the patent term is to be adjusted for failure to issue a patent within three years of the actual filing date of the application.[2] In this instance, the patent issued three years and 732 days after its filing date, and there were no periods excluded pursuant to 35 U.S.C. 154(b)(1)(B)(i)-

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[1] 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 three years.

[2] 37 CFR 1.702 (b) provides that: 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 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

Further, 37 CFR 1.703(b) provides that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of …
(the excluded periods).

(iii) and 37 CFR 1.702(b)(1)-(4). However, entry of an additional adjustment for Office delay is limited by 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f).

35 U.S.C. 154(b)(2)(A) provides the following limitation:

> To the extent that 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 further provided in 37 CFR 1.703(f):

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

Pursuant to 35 USC 154(b)(2)(A) and 37 CFR 1.703(f), 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, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. The Office has explained that 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). *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), 1284 OG 109 (July 13, 2004); 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, other than the 961-day delay in issuing the first Office action, there were no Office delays during the pendency of this application. The Office did not delay 961 days and then an additional 732 days. Given the 961-day delay, and the undisputed 61-day applicant delay and time allowed for processing and examination, the patent issued three years and 732 days after the application filing date. 961 days is the actual number of days the issuance of the patent was delayed by the Office. All of the 732 days pursuant to §1.702(b) overlapped with the 961 days accorded pursuant to §1.702(a)(1), and thus, no additional periods of adjustment were entered for Office delay in issuing the patent pursuant to §1.702(b).

In view thereof, the patent term adjustment remains 900 (961 - 61) days.

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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Ronald Bruce Long	: DECISION ON REQUEST FOR
Patent Number	: 7524466	: RECALCULATION of PATENT
Issue Date	: 04/28/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAN JOSE, CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Petro Estakhri et al	:	
Application No. 10/832,421	:	DECISION GRANTING PETITION
Filed: April 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Lexar-41C9	:	

This is a decision on the petition, filed February 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Martin Vetterli, et al. :
Application No. 10/832,423 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 080464 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

It is noted that the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to a Notice to File Missing Parts mailed July 9, 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) was obtained. Accordingly, the application became abandoned on September 10, 2004. A Notice of Abandonment was subsequently mailed on March 22, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant

to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but

provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 10, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Peter A. Businger was the counsel of record at the time of abandonment, he should explain why this application became abandoned while under his control. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Further, statements are required from Mr. Businger and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.
Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PETER A. BUSINGER, ESQ
373 PARK AVE., SUITE 205
SCOTCH PLAINS, NJ 07076

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In re Application of :
Martin Vetterli, et al. :
Application No. 10/832,423 : DECISION ON PETITION
Filed: April 23, 2004 :
Attorney Docket No. 080464 :

This is a decision in response to the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2008, to revive the above-identified application.

The petition is not signed by a registered attorney or agent of record. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. The Change of Address filed October 3, 2008 will not be processed. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed solely to the address of record.

The petition is **DISMISSED.**

Any further 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.

A review of the record shows that the application became abandoned on September 10, 2004 for failure to reply in a timely manner to a Notice of to File Missing Parts mailed July 9, 2004. On November 26, 2007, a petition under 37 CFR 1.137(b) was filed, however, the petition was dismissed in a decision mailed April 4, 2008. In response, on October 3, 2008, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Again the petition lacks the showing required for item (3) above.

Petitioner does not sufficiently explain the delay in filing a response which originally resulted in the abandonment of the application or the delay in filing the initial petition to revive.

While petitioner simply states that he has no recollection of having received the Notice to File Missing Parts of July 9, 2004 or the Notice of Abandonment of March 22, 2006, a review of the written record indicates no irregularity in the mailing of the Office action. Therefore, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. Petitioner does not provide a showing of any kind that the Notices were not received.

Further, it is noted that petitioner states that he recently became aware of the abandonment, although the application has been abandoned since September 10, 2004. Petitioner does not provide a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In view of the above, the petition cannot be granted at this time.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PETER A. BUSINGER, ESQ.
373 PARK AVENUE
SUITE 205
SCOTCH PLAINS, NJ 07076

[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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TECHNOLOGY CENTER 3600

WILLIAM W. HAEFLIGER
201 S. LAKE AVENUE
SUITE 512
PASADENA, CA 91101

In re application of : **DECISION ON PETITION**
Harold J. Engerbretson et al. : **TO MAKE SPECIAL**
Application No. 10/832,425 : **(APPLICANT'S AGE)**
Filed: April 27, 2004 :
For: METHOD FOR COMPUTATION OF DIFFERENTIAL AZIMUTH FROM SPACED-APART GRAVITY COMPONENT MEASUREMENTS

This is a decision on the petition submitted on April 27, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Engerbretson is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 11/29/04

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. Box 14300
Washington, DC 20044-4300

In re Application of:
Hidemasa Aiba
Serial No.: 10/832,453
Filed: April 24, 2004
Docket: **100689.54895US**
Title: **IMAGE FORMING MACHINE**

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on September 02, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention; and d) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII). Any restriction later required by the Office must be responded with an election without traverse by applicant as a condition for the application retaining its special status.

The application file is being forwarded to the examiner for expedited prosecution.

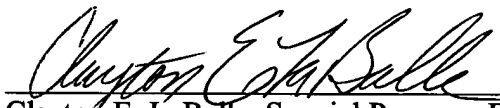
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



Clayton E. LaBalle, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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MILTON, GELLER, LLP
700 - 225 METCALFE STREET
OTTAWA ON K2P-1P9 CA CANADA

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OFFICE OF PETITIONS

In re Patent No. 7,000,503 :
Issue Date: February 21, 2006 :
Application No. 10/832,467 : NOTICE
Filed: April 27, 2004 :
Attorney Docket No. **FARR-10.US (5346-10-10)** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Gauthier & Connors
225 Franklin Street
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Richard Streeter :
Application No. 10/832,474 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. 7394 (CIP 2) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 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 Arlene J. Powers on behalf of all attorneys of record.

All attorneys/agents associated with 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 Richard Streeter at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Richard B. Streeter
66 Brookside Avenue
Winchester, MA 01890

cc: Wolf Greenfield
600 Atlantic Avenue
Boston, MA 02110

cc: Gauthier & Connors, LLP
225 Franklin Street
Boston, MA 02110

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of :
Streeter, et al. : DECISION ON APPLICATION
Application No. 10/832,474 : FOR PATENT TERM ADJUSTMENT
Filed: April 26, 2004 :
Atty. Dkt. No.: K0502.70039US00 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed December 1, 2008. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Determination of Patent Term Adjustment mailed September 30, 2008 indicated that the application is entitled to adjustment of 539 days. Applicants argue that the adjustment was improperly reduced 350 days in connection with a submission mailed to the UPSTO on September 22, 2005.

The correct PTA at the time of the allowance is 836 days as indicated herein.

Applicants do not dispute the adjustment under 37 CFR 1.703(a)(1) of 936 days. Applicants do not contest the reduction of 47 days under 37 CFR 1.704(b).

Applicants contest the reduction under 37 CFR 1.704(b) of 350 days in connection PALM entry dated September 22, 2005.

Review of the application history reveals that a Notice to File Missing Parts was mailed July 7, 2004. The Office errantly entered a reduction of 350 days, the PAIR calculation incorrectly reflecting that a reply to the Notice to File Missing Parts was received September 22, 2005. The Notice under 37 CFR 1.251, mailed May 4, 2005, reflects that the reply to the Notice to File Missing Parts was received September 22, 2004 could not be located in the Office.

A Notice under 37 CFR 1.251, mailed May 4, 2005, required the submission of a copy of the September 22, 2004 reply to the Notice to File Missing Parts. A reply to the Notice under 37 CFR 1.251 was filed September 26, 2005. Thus, in accordance with 37 CFR 1.704(b), the adjustment of 936 days is properly reduced 53 days in connection with the response to the Notice under 37 CFR 1.251. The reduction commenced August 5, 2005, the day after the date that is three months after the date that the Notice under 37 CFR 1.251 was mailed, and ended September 26, 2005, the date that the reply to the Notice under 37 CFR 1.251 was received.

In review thereof, as of the time of allowance, the application is entitled to an adjustment of 836 days (adjustments totaling 936 days less reductions totaling 100 days).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Division of Data Management for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Tuesday
Date: 3/24/2009

PALM INTRANET

Time: 08:54:51

PTA Calculations for Application: 10/832474			
Application Filing Date:	04/26/2004	PTO Delay (PTO):	936
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	397
Post-Issue Petitions:	0	Total PTA (days):	836
PTO Delay Adjustment:	297		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	03/24/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	297		
57	09/30/2008	MAIL NOTICE OF ALLOWANCE			
56	09/29/2008	ISSUE REVISION COMPLETED			
55	09/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	09/29/2008	DOCUMENT VERIFICATION			
53	09/24/2008	NOTICE OF ALLOWABILITY			
52	09/18/2008	PARALEGAL TD ACCEPTED			
51	08/25/2008	TERMINAL DISCLAIMER FILED		0	48
50	08/25/2008	TERMINAL DISCLAIMER FEE PAID			
49	09/16/2008	DATE FORWARDED TO EXAMINER			
48	08/25/2008	AMENDMENT AFTER FINAL REJECTION			
47	07/30/2008	MAIL FINAL REJECTION (PTOL - 326)			
46	07/29/2008	FINAL REJECTION			
45	05/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	06/30/2008	DATE FORWARDED TO EXAMINER			
43	06/04/2008	RESPONSE AFTER NON-FINAL ACTION		47	38
42	06/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	05/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	05/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	05/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	01/18/2008	MAIL NON-FINAL REJECTION	936		-1
37	01/17/2008	NON-FINAL REJECTION			

36	09/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	09/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	02/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	12/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
30	09/14/2007	REFERENCE CAPTURE ON IDS			
29	09/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	10/16/2007	FLAGGED FOR 5/25			
27	09/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	09/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	01/23/2007	CORRESPONDENCE ADDRESS CHANGE			
24	08/03/2006	MAIL-PETITION DECISION - GRANTED			
23	07/20/2006	CORRESPONDENCE ADDRESS CHANGE			
22	07/21/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
21	03/07/2005	PETITION ENTERED			
20	06/02/2006	CORRESPONDENCE ADDRESS CHANGE			
19	02/08/2006	REFERENCE CAPTURE ON IDS			
18.7	02/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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15	09/29/2005	APPLICATION DISPATCHED FROM OIPE			
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13	09/22/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		350	5
12	09/22/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	09/22/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
		APPLICANT HAS SUBMITTED A NEW			

10	09/22/2005	SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
9	04/26/2004	A DOCUMENT THAT CONTAINS, AT LEAST IN PART, A WRITTEN DESCRIPTION OF AN INVENTION, AND OF THE MANNE			
8	09/29/2005	CORRESPONDENCE ADDRESS CHANGE			
7	05/04/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
6	05/03/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
5	07/07/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	05/25/2004	CLEARED BY OIPE CSR			
3	05/25/2004	CASE CLASSIFIED BY OIPE			
2	05/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/26/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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SEP 14 2007

OFFICE OF PETITIONS

In re Patent No. 7,217,069	:	
Dils et al.	:	
Issued: May 15, 2007	:	LETTER REGARDING PATENT
Application No. 10/832,493	:	TERM ADJUSTMENT and
Filed: April 27, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.: 10710/297	:	CERTIFICATE OF CORRECTION
(PTG-0755 PUS3	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 11, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Patentees state that the patent term adjustment for the above-identified patent should be set at four hundred ninety-five (495) days instead of five hundred sixty-one (561) days.

The request for review of the determination of patent term adjustment is **granted**.

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 **FOUR HUNDRED NINETY-FIVE (495)** days.

On May 11, 2007, patentees submitted the instant comment. On May 15, 2007, the above-identified application matured into U.S. Patent No. 7,217,069, with a revised patent term adjustment of 561 days. Patentees provide no basis for the request for review of the patent term adjustment.

Nonetheless, a review of the application history confirms that applicants should have been assessed a delay of sixty-six (66) days pursuant to 37 CFR 1.704(b). A Notice to File Missing Parts of Nonprovisional Application was mailed on July 1, 2004. On December 6, 2004, applicants filed a reply, accompanied by a request for an extension of time for response within the third month. Thus, applicants failed to engage in reasonable efforts to conclude processing of this application. The period of adjustment should have been reduced by 66 days, the number of days in the period 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, October 2, 2004, and ending on the date the reply was filed, December 6, 2004.

In view thereof, the patent should have issued with a revised patent term adjustment of **495** days.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction 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 **FOUR HUNDRED NINETY-FIVE (495)** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,217,069 B2

DATED : May 15, 2007

INVENTOR(S) : Dils et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (561) days

Delete the phrase "by 561 days" and insert – by 495 days--

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P O BOX 2200
HILLSBORO, OR 97123

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Peter Aliski et al :
Application No. 10/832,495 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. ACMI-2.047.US :

This is a decision on the petition under 37 CFR 1.137(a), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 15, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is longer). No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 16, 2005. A Notice of Abandonment was mailed on August 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply (amendment and election); (2) the petition fee of $500; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 3738 for appropriate action in the normal course of business on the reply received September 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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MAR 20 2008

In re Application of :
Richard Wilen :
Application No. 10/832,507 : DECISION ON PETITION
Filed: April 26, 2004 :
Title: Insert with a Return Mailer :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of June 18, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was 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 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, drawings and specification (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3782 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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NOV 22 2006

OFFICE OF PETITIONS

Applicant: Kiran
Appl. No.: 10/832,509
Filing Date: April 27, 2004
Title: SYSTEM AND METHOD FOR WORKFORCE REQUIREMENTS MANAGEMENT
Attorney Docket No.: 109704-11
Pub. No.: US 2005/0240465 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 December 27, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 7, paragraph 81, as the "less than or equal to" symbol "≤" is misprinted with a second line.

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 typographical error noted by requestor wherein the "less than or equal to" symbol "≤" in paragraph 81 is misprinted with a second line for the equal is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The mistake is a minor printing error, which does not affect the understanding of the application, as the printed symbol is a variant form for the symbol "≤". The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application

[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).

publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SETTER ROCHE LLP
P.O. BOX 780
ERIE, CO 80516

Mail Date: 04/20/2010

Applicant	: Ali S. Kiran	: DECISION ON REQUEST FOR
Patent Number	: 7650293	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **103** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OCT 16 2009

Technology Center 2100

John L. Rogitz
Rogitz & Associates
Suite 3120, 750 B Street
San Diego CA 92101

In re Application of: Larry Lynn Williams
Application No. 10/832,514
Filed: April 27, 2004
Atty. Docket No.: HSJ920040038US1
For: SYNERGISTIC HYBRID DISK DRIVE

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition, filed on September 21, 2009, under 37 C.F.R. § 1.181 to show "sufficient cause" for re-opening prosecution, and certify that the merits of the rejection have been reviewed by the Director.

The petition is **DISMISSED.**

APPLICABLE PROSECUTION HISTORY

May 7, 2009	Decision by Board of Patent Appeals and Interferences. The Decision reversed the Examiner's rejections of claims 1, 2, 4-11, and 13-17 under 35 U.S.C. § 103(a), and sustained the rejection of claims 18, 19, and 21-25 under 35 U.S.C. § 103(a).
September 8, 2009	Examiner mailed a Non-Final rejection under 35 USC 103(a) over Beal et al (US Pat. 6073221) in view of Smith (US Pat. 6594724).
September 14, 2009	Response and amendments were filed in response to Non-Final action mailed above. Independent claims 1, 10, and 18 were amended to overcome the art rejection provided in the Non-Final action.
September 14, 2009	Instant Petition filed.

RELIEF REQUESTED

In support of the petition, petitioner states that a search was conducted by the examiner on September 8, 2009, subsequent to the Board Decision partially affirming the examiner, and the prosecution was re-opened in the instant application, and the claims were rejected under 35 USC

103(a) based on a primary reference that was discovered pursuant to the search on September 8, 2009.

RULES AND PROCEDURES

719.05 [R-6] Field of Search

.....

In the first action on the merits of an application, the examiner must record in the appropriate sections of the OACS "Search Notes" page the areas in which the search for prior art was made. The examiner must also indicate the date(s) on which the search was conducted and provide his/her initials. **In subsequent actions, where the search is brought up to date and/or where a further search is made, the examiner must indicate that the search has been updated and/or identify the additional field of search and include the date and the examiner's initials in the appropriate sections of the OACS "Search Notes" page.** Any search updates should include the appropriate databases and the search queries and classifications employed in the original search. See MPEP § 904. Great care should be taken so as to clearly indicate the places searched and the date(s) on which the search was conducted and/or updated.

904 [R-5] How to Search

.....

In the first action on the merits of an application, the examiner must complete the Image File Wrapper (IFW) search notes form in *>the Office Action Correspondence Subsystem (OACS)< to include the classes and subclasses of domestic and foreign patents, abstract collections, and publications in which the search for prior art was made. Other information collections and sources in which the search for prior art was made must also be identified by the examiner. The examiner must also indicate the date(s) on which the search was conducted. Note MPEP § 719.05.

In subsequent actions, where the search is brought up-to-date and/or where a further search is made, the examiner must indicate on the IFW search notes form that the search has been updated and/or identify the additional field of search. See MPEP § 719.05. Any search updates should include all of the relevant or pertinent databases and the search queries and classifications employed in the original search.

1214.07 [R-3] Reopening of Prosecution

37 CFR 1.198. **> Reopening after a final decision of the Board of Patent Appeals and Interferences.

When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner **will not be reopened** or reconsidered by the primary examiner **except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director**, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

The relevant portion of 37 CFR 1.181(f) states:

> **The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.** Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

DECISION

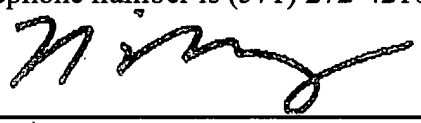
Examiner is required to bring the search up-to-date before issuing any office action (refer MPEP 904 and 719.05 above). A review of the application history indicates that as a result of an update search conducted by the examiner, as required, primary reference to Beal et al (US Pat. 6073221) was discovered, which in combination with Smith (US Pat. 6594724), met the limitations of the claimed invention.

As required by MPEP 1214.07, the action has been reviewed by the TC Director, as indicated by the signature of the Director in the action mailed on September 8, 2009.

For the above stated reasons, the petition is **DISMISSED**.

The amendments and response filed on September 14, 2009 has been entered, and the case is being forwarded to the examiner for appropriate action on the merits.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.



Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

NRR:mp

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/832,514	04/27/2004	Larry Lynn Williams	HSJ920040038US1	3737

7590 10/19/2009

John L. Rogitz
Rogitz & Associates
Suite 3120
750 B Street
San Diego, CA 92101

EXAMINER	
DOAN, DUC T	

ART UNIT	PAPER NUMBER
2185	

MAIL DATE	DELIVERY MODE
10/19/2009	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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DEC 0 3 2004

TECHNOLOGY CENTER 3600

RICHARD G. WOOD
1717 ST. JAMES PLACE
SUITE 500
HOUSTON, TX 77056

In re application of : **DECISION ON PETITION**
Richard Glee Wood et al. : **TO MAKE SPECIAL**
Application No. 10/832,529 : **(APPLICANT'S AGE)**
Filed: April 27, 2004 :
For: CARDLESS METHOD FOR REDUCING FRAUD
IN HEALTHCARE PROGRAMS

This is a decision on the petition submitted on April 27, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed driver license indicating Mr. Wood is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 11/15/04

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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APR 05 2007

OFFICE OF PETITIONS

In re Application of :
Khurram Muhammad :
Application No. 10/832,531 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. TI-36625 :

This is a decision in response to the petition, filed November 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 16, 2006. A Notice of Abandonment was mailed on October 23, 2006. In response, on November 7, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1.500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2819 for consideration of the amendment filed November 7, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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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
Application No. 10/832,531
Filed: April 27, 2004
Attorney Docket No. TI-36625

ON PETITION

This is a decision in response to the petition, filed July 15, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 11, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 12, 2008. A Notice of Abandonment was mailed on May 30, 2008. On July 15, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the response filed July 15, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LESLIE A. SERUNIAN, PH.D.
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO
THE CHRYSLER CENTER
666 THIRD AVENUE, 24TH FLOOR
NEW YORK, NY 10017

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Michael B. Chancellor et al :
Application No. 10/832,542 :
Filed: April 26, 2004 :
Attorney Docket No. (0286372-136) :

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.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to the Office of Initial Patent Examination for preexamination processing.

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
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ATTN: PATENT INTAKE CUSTOMER NO. 35437
ONE FINANCIAL CENTER
BOSTON, MA 02111

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Chancellor et al. :
Application No. 10/832,542 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 28682-503 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely filed. Accordingly, the date of abandonment of this application is March 28, 2008. A Notice of Abandonment was mailed July 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00, three month extension of time fee submitted with the petition on June 30, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1649 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Michael P. Casey	: DECISION ON REQUEST FOR
Patent Number	: 7618319	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1487** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/832,583	04/26/2004	2681	1112	555255-012732	8	39	3

CONFIRMATION NO. 3786

CORRECTED FILING RECEIPT

OC000000014622502

John V. Biernacki, Esq.
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Date Mailed: 12/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael S. Brown, Waterloo, CANADA;
Neil P. Adams, Waterloo, CANADA;
Herbert A. Little, Waterloo, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number **24325**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/494,621 08/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/832,583

Projected Publication Date: 03/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

System and method of secure message processing

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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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).

DATE 8/27/07 APPLICATION NUMBER 10/832,586

DOC CODE PET.DEC.COCIN DOC DATE 09/06/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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MILWAUKEE WI 53202-5306

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Newberry, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/832,586	: AND NOTICE OF
Filed: April 27, 2004	: INTENT TO ISSUE
Patent No. 7,223,317	: CERTIFICATE OF CORRECTION
Issued: May 29, 2007	:

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed July 26, 2007.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred twenty-five (225)** days.

On May 29, 2007, the above-identified application issued into US Patent No. 7,223,317, with a patent term adjustment of two hundred twenty-nine (229) days. The Office determined a patent term adjustment of two hundred twenty-nine (229) days based on an adjustment for PTO delay of two hundred fifty-two (252) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by twenty-three (23) days of Applicant delay pursuant to 37 C.F.R. § 1.704(b).

A review of the PTA calculation in PAIR reveals that applicants were assessed twenty-three (23) days of delay for responding to a August 16, 2006 final Office action on December 10, 2006. However, a review of the record reveals that applicants did not file their response on December 10, 2006, but rather on December 14, 2006. As such, applicants should have been assessed delay of twenty-seven (27) days, not twenty-three (23) days.

In view of the above, the correct patent term adjustment is two hundred twenty-five (225) days (252 days of PTO delay, reduced by 27 days of applicant delay).

The matter is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred twenty-five (225)** days, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,223,317 B2

DATED : May 29, 2007

INVENTOR(S) : Newberry, 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 (229) days

Delete the phrase "by 229 days" and insert – by 225 days—

Day : Wednesday

PALM INTRANET

Date: 9/5/2007
Time: 13:58:25

PTA Calculations for Application: 10/832586			
Application Filing Date:	04/27/2004	PTO Delay (PTO):	252
Issue Date of Patent:	05/29/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	23
Post-Issue Petitions:	0	Total PTA (days):	225
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	09/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
50.5	05/09/2007	PTA 36 MONTHS			
50	05/29/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	05/01/2007	EXPORT TO FINAL DATA CAPTURE			
48	04/30/2007	DISPATCH TO FDC			
47	04/30/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
46	04/20/2007	ISSUE FEE PAYMENT VERIFIED			
45	04/20/2007	ISSUE FEE PAYMENT RECEIVED			
44	04/04/2007	FINISHED INITIAL DATA CAPTURE			
43	03/07/2007	WORKFLOW - QUERY REQUEST - FINISH			
42	02/27/2007	TC RETURN TO PUBS			
41	02/14/2007	PUBS CASE REMAND TO TC			
40	02/19/2007	WORKFLOW - QUERY REQUEST - BEGIN			
39	01/26/2007	EXPORT TO INITIAL DATA CAPTURE			
38	01/23/2007	MAIL NOTICE OF ALLOWANCE			
37	01/23/2007	MAIL EXAMINER'S AMENDMENT			
36	01/17/2007	ISSUE REVISION COMPLETED			
35	01/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	01/14/2007	EXAMINER'S AMENDMENT COMMUNICATION			
33	01/14/2007	NOTICE OF ALLOWABILITY			
32	01/12/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	01/05/2007	DATE FORWARDED TO EXAMINER			
30	12/10/2006	AMENDMENT AFTER FINAL REJECTION		23	25

29	12/10/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/01/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
27	11/28/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
26	11/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	08/17/2006	MAIL FINAL REJECTION (PTOL - 326)			
24	08/16/2006	FINAL REJECTION			
23	06/14/2006	DATE FORWARDED TO EXAMINER			
22	06/06/2006	RESPONSE AFTER NON-FINAL ACTION			
21	03/06/2006	MAIL NON-FINAL REJECTION	252		-1
20	03/03/2006	NON-FINAL REJECTION			
19	02/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	07/29/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	02/28/2005	REFERENCE CAPTURE ON IDS			
16	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	10/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	10/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	07/29/2004	REFERENCE CAPTURE ON IDS			
11	07/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/13/2004	TRANSFER INQUIRY TO GAU			
9	07/01/2004	APPLICATION RETURN FROM OIPE			
8	07/01/2004	APPLICATION RETURN TO OIPE			
7	07/01/2004	APPLICATION DISPATCHED FROM OIPE			
6	07/01/2004	APPLICATION IS NOW COMPLETE			
5	06/01/2004	CLEARED BY L&R (LARS)			
4	05/26/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/26/2004	CASE CLASSIFIED BY OIPE			
2	05/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BAINWOOD HUANG & ASSOCIATES, LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Ravishankar Ganesh Ithal :
Application No. 10/832,588 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 1004-071 :

This is a decision on the petition, filed March 6, 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**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on March 6, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a 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
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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
Ravishankar Ganesh Ithal :
Application No. 10/832,588 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 1004-071 :

This is a decision on the renewed petition, filed March 3, 2008, 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 5, 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 and/or Notice of Foreign Filing which sets forth the projected publication date of August 21, 2008 accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of February 14, 2008 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of February 14, 2008 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being forwarded to Technology Center Art Unit 2135 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/832,588	04/27/2004	Ravishankar Ganesh Ithal	1004-071

CONFIRMATION NO. 3778

47654
BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

NONPUBLICATION RESCISSION LETTER

OC000000029989043

Date Mailed: 05/16/2008

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 08/21/2008.

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.

[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".

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Craig A. Bahlmann et al :
Application No. 10/832,593 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 17559-051 :

This is a decision on the petition, filed December 6, 2006, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the Final Rejection mailed May 10, 2006.

The petition states that a reply was timely submitted on November 10, 2006. To support this assertion, the petitioner has submitted a copy of the response, along with a copy of the USPS Express Mail Label No. EV869861655US with a stamp date of November 10, 2006. Additionally, a review of the file record indicates receipt of the above (Notice of Appeal and Extension of Time) on November 10, 2006.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Applicant should be aware that the time continues to run to file an appeal brief.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1771.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

Applicant: Demir et al.
Appl. No.: 10/832,594
Filing Date: April 27, 2004
Title: DIGITAL BASEBAND RECEIVER WITH DC DISCHARGE AND GAIN CONTROL CIRCUIT
Attorney Docket No.: I-2-0533.1US
Pub. No.: US 2005/0003777 A1
Pub. Date: January 6, 2005

This is a decision on the resubmission of a request for corrected of patent application publication under 37 CFR 1.221(b), received on January 25, 2005, for the above-identified application

The request is granted.

Applicant requests that the application be republished because the patent application publication contains material errors as it includes the claims and abstract from another application.

The corrected patent application publication will be published in due course.

The amendment received by the Office on July 13, 2004, that included the wrong application number, which was improperly scanned into this application due to the error and published have been relabeled as a miscellaneous letter.

It would greatly benefit the Office if **applicant did not provide copies of the application papers**, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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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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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/832,597 : DECISION ON PETITION
Filed: 04/27/2004 :
Attorney Docket No. 200401219-1 :

This is a decision on the petition under 37 CFR 1.181, filed April 7, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the nonfinal Office action, mailed on June 21, 2007, which set a three-month shortened statutory period for reply. Accordingly, a reply was due on or before September 21, 2007. In the absence of a timely reply, the Office mailed a Notice of Abandonment on March 10, 2008.

Applicants assert that they filed a timely and proper reply to the nonfinal Office action via facsimile transmission on September 21, 2007. Applicants request that the previously filed Amendment and Response be entered as having been timely submitted on September 21, 2007. In support of the assertion, applicants provided the Office with the following items on petition:

1. Communication re: Notice of Abandonment, informing the Office of previously submitted Amendment, of which the Office has no evidence of receipt.

2. Copy of Amendment and Response submitted via facsimile on September 21, 2007, with signed and dated certificate of transmission attesting to the date.

3. Affidavit of Jennifer L. Vomhof, the person who signed the certificate of mailing, attesting to her personal knowledge of timely transmission via facsimile of Amendment and Response on September 21, 2007, and copy of the sending unit's report confirming transmission.

The file record does not include the original reply in the form of an amendment. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the nonfinal Office action is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on September 21, 2007.

This application is being referred to Technology Center AU 2193 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquires specific to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Warren M. Farnworth	: DECISION ON REQUEST FOR
Patent Number	: 7632713	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1378** 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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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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AUG 0 5 2008

OFFICE OF PETITIONS

In re Application of
Yusibov, et al.
Application No. 10/832,603
Filed: April 26, 2004
Attorney Docket No. 2002645-0042

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is GRANTED.

The instant application became abandoned November 13, 2007 for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment mailed October 12, 2007. The Notice set a one month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the required petition fee, and (3) an adequate 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 Technology Center AU 1638 for appropriate action by the Examiner in the normal course of business on the reply received June 2, 2008.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 06 2009

OFFICE OF PETITIONS

Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

In re Application of	:	
Vidadi Yusibov et al.	:	
Application No. 10/832,603	:	DECISION ON PETITION
Filed: April 26, 2004	:	TO WITHDRAW
Attorney Docket No. 2002645-0042	:	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 16, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Brenda Herschbach Jarrell on behalf of all attorneys/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed. All future correspondence will be mailed to the address of the assignee.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Fraunhofer USA
46025 Port Street
Plymouth, MI 48170

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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
10/832,603	04/26/2004	Vidadi Yusibov	

CONFIRMATION NO. 3141

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 04/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Dr. M. Anandan
13009 Thome Valley Dr.
Del Valle, TX 78617

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JUL 25 2008

In re Application of Anandan :
Application No. 10/832,608 : Decision on Petition
Filing Date: April 27, 2004 :
Docket No. OLIT1144 :

This is a decision on the petition under 37 CFR 1.181, filed April 18, 2008, requesting the Office withdraw the holding of abandonment. The petition is filed in the alternative under 37 CFR 1.137(a) and 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **dismissed**.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

Facts:

The Office mailed a non-final Office action including a requirement for restriction/election on mailed October 3, 2005.

Petitioner filed a reply on October 17, 2005.

On December 29, 2005, the examiner mailed petitioner a letter informing petitioner the October 17, 2005, was incomplete and non-responsive.

Petitioner filed an amendment on January 19, 2006.

The Office mailed a Notice of Non-Compliant Amendment on October 6, 2006. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Petitioner filed a reply on November 1, 2006.

The Office mailed a non-final Office action on January 29, 2007.

Petitioner filed an amendment February 13, 2007.

The Office mailed a Notice of Non-Compliant Amendment on March 7, 2007. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Petitioner filed a reply on April 3, 2007.

The Office mailed a Notice of Non-Compliant Amendment on April 19, 2007. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Petitioner filed a reply on April 27, 2007.

On May 14, 2007, the Office mailed a letter titled, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment ... *No New Time Period for Reply is Provided.*" The letter indicated the amendment filed April 27, 2007, was deficient. The letter stated,

> The period for reply continues from the mailing date of the prior Notice of Non-Compliant Amendment.... No new time period for reply is provided in this communication.

The Office did not receive a new amendment or request for an extension of time. Therefore, the application became abandoned on Tuesday, May 22, 2007.[1]

The Office mailed a Notice of Abandonment on April 11, 2008.

Discussion of the petition under 37 CFR 1.181 requesting the Office withdraw the holding of abandonment:

Petitioner requests the holding of abandonment be withdrawn based on non-receipt of the May 14, 2007 letter.

The May 14, 2007 letter was not a notice or office action setting forth a period for reply. Instead, the letter was simply a communication informing petitioner of a deficiency in petitioner's April 27, 2007 reply. Therefore, non-receipt of the letter does not warrant withdrawal of the holding of abandonment. A failure to receive a letter from the Office action advising one of a deficiency in a submission in reply sufficient time to permit an applicant to take corrective action is not a situation where the holding of abandonment will be withdrawn.

The Office mailed a Notice on April 19, 2007. The Notice stated a failure to properly reply to the Notice would result in abandonment. Petitioner did not properly reply to the Notice within the time period set forth in the Notice. Therefore, the application is abandoned.

The petition under 37 CFR 1.137(a):

The Office will not consider the merits of a petition prior to the submission of the required petition fee. Petitioner has not submitted the required fee of $255.

---

[1] The due date for responding to the April 19, 2007 Notice fell on a Saturday. Therefore, a reply could have been timely filed as late as Monday, May 21, 2007.

Since the petition fee for the petition under 37 CFR 1.137(a) has not been filed, the petition must be dismissed.

The petition under 37 CFR 1.137(b):

The Office will not consider the merits of a petition prior to the submission of the required petition fee. Petitioner has not submitted the required fee of $770. Since the petition fee for the petition under 37 CFR 1.137(b) has not been filed, the petition must be dismissed.

Conclusion:

The petitions under 37 CFR 1.181, 37 CFR 1.137(a), and 37 CFR 1.137(b) are dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by a proper reply to the Notice mailed April 19, 2007, the required petition fee of $770, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

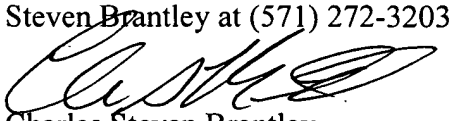
A copy of a PDF "fillable" form for a petition under 37 CFR 1.137(b) can be found at: "http://www.uspto.gov/web/forms/sb0064_fill.pdf". A blank copy is also attached.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64
Privacy Act Notice

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dr. M. Anandan
13009 Thome Valley Dr.
Del Valle, TX 78617

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JAN 02 2009

OFFICE OF PETITIONS

In re Application of Anandan :
Application No. 10/832,608 :
Filing Date: April 27, 2004 :
Docket No. OLIT1144 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Non-Compliant Amendment on April 19, 2007. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

Petitioner filed a reply on April 27, 2007.

On May 14, 2007, the Office mailed a letter titled, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment ... *No New Time Period for Reply is Provided.*" The letter indicated the amendment filed April 27, 2007, was deficient. The letter stated,

> The period for reply continues from the mailing date of the prior Notice of Non-Compliant Amendment.... No new time period for reply is provided in this communication.

The Office did not receive a new amendment or request for an extension of time. Therefore, the application became abandoned on Tuesday, May 22, 2007.[1]

The Office mailed a Notice of Abandonment on April 11, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,

[1] The due date for responding to the April 19, 2007 Notice fell on a Saturday. Therefore, a reply could have been timely filed as late as Monday, May 21, 2007.

(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Non-Compliant Amendment in the form of a new copy of the claims. Petitioner has submitted the required petition fee of $770. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2871 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KONRAD RAYNES & VICTOR, LLP.
ATTN: INT77
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Carol A. Bell	:	
Application No. 10/832,616	:	DECISION ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. P19205	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 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 April 17, 2008, as required by the Notice of Allowance and Fee(s) Due mailed January 17, 2008. Accordingly, the date of abandonment of this application is April 18, 2008. A Notice of Abandonment was mailed May 27, 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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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PHILIP L. RAWLS
VESTA BROADBAND SERVICES
6510 ABRAMS RAOD, SUITE 215
DALLAS, TX 75231

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Shoeb M. Javed, et al. :
Application No. 10/832,623 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. VIDEO1-00012 :

This is a decision on the petition under 37 CFR 1.137(b), filed by April 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed July 2, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge. On April 1, 2005, the present petition was filed, as well as an executed declaration under 37 CFR 1.63, the surcharge under 37 CFR 1.16(e) and a 4-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, 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. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $795 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The petition is found to comply with the requirements of 37 CFR 1.137(b),

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Thereafter the application will be returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed April 1, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MARC J. FARRELL
BUCHANAN INGERSOLL PC
213 MARKET STREET, 3RD FLOOR
HARRISBURG, PA 17101-2121

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SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Corl et al.	:	
Application No. 10/832,634	:	DECISION ON PETITION
Filed: April 27, 2004	:	
Attorney Docket No. RPS920020128US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PAUL, HASTINGS, JANOFSKY & WALKER LLP
P.O. BOX 919092
SAN DIEGO CA 92191-9092

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Soza, Lawrence E.	:	DECISION ON PETITION
Application No. 10/832,639	:	TO WITHDRAW
Filed: April 27, 2004	:	FROM RECORD
Attorney Docket No. 45288.00002DIV	:	

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 12, 2005, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that the attorneys/agents associated with Customer Number 36183: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. The attorneys/agent associated with Customer Number 36183 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The 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 be directed to the first named inventor or assignee of the entire interest at the below-listed address until otherwise properly notified by the applicant.

The application became abandoned for failure to timely reply to the Office action mailed August 9, 2005.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LAWRENCE E. SOZA
19328 E. LEVEL STREET
COVINA, CA 91723

FRANK UBELL
GREENBERG TRAURIG, LLP
650 TOWN CENTER DRIVE, SUITE 1700
COSTA MESA, CA 92626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100616

DATE : June 16, 2010

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7055656

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:

/ROBERT A SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

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FORT COLLINS, CO 80527-2400

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Sudhir Srinivasan et al	:	
Application No. 10/832,660	:	DECISION DISMISSING PETITIONS
Filed: April 26, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 26680-035 CON	:	

This is a decision on the petition, filed March 1, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 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.

The petition does not satisfy item (1). In this regard, 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. In the instant case, the claim for benefit of priority fails to specifically identify the nonprovisional application claiming the benefit of the prior-filed provisional applications. As currently worded, the claim for benefit of priority indicates that this application (Application No. 10/832,660, filed April 26, 2004) is directly claiming benefit of priority to provisional application Nos. 60/395,839, filed July 15, 2002; 60/447,720, filed February 19, 2003; 60/447,722, filed February 19, 2003; and 60/447,723, filed February 19, 2003. However, this application cannot directly claim benefit to these provisional applications as this application was filed more than 12 months from the filing date of the provisional applications. Where an application claims a benefit of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11.

In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. There is no indication herein that prior-filed nonprovisional Application No. 10/425,393 (which appears to be the only application herein which can claim benefit of the prior-filed provisional applications) properly referenced the prior-filed provisional applications. Therefore, petitioner must also demonstrate that a proper reference was made in Application No. 10/425,393, to the prior-filed provisional applications. *See* MPEP Section 201.06(d). Accordingly, for the reasons set out above, the amendment as presented is unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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. No additional petition fee is required.

The statement of unintentional delay only references 37 CFR 1.78(a)(5), whereas the statement should have referenced both 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Nevertheless, the statement presented will be construed as meaning 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." If this is not a correct reading of the statement appearing in the petition, petitioner should so indicate in the renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Sudhir Srinivasan et al :
Application No. 10/832,660 : DECISION DISMISSING PETITIONS
Filed: April 26, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 26680-035 CON :

This is a decision on the petition, filed March 1, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.[1]

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 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.

The petition does not satisfy item (1). In this regard, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending

[1] A previous decision was mailed in this case on October 25, 2006. However, because the decision was mailed to an incorrect address, the decision of October 25, 2006 was returned to the Office. The Office apologizes for any inconvenience this matter may have caused applicant herein.

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. In the instant case, the claim for benefit of priority fails to specifically identify the nonprovisional application claiming the benefit of the prior-filed provisional applications. As currently worded, the claim for benefit of priority indicates that this application (Application No. 10/832,660, filed April 26, 2004) is directly claiming benefit of priority to provisional application Nos. 60/395,839, filed July 15, 2002; 60/447,720, filed February 19, 2003; 60/447,722, filed February 19, 2003; and 60/447,723, filed February 19, 2003. However, this application cannot directly claim benefit to these provisional applications as this application was filed more than 12 months from the filing date of the provisional applications. Where an application claims a benefit of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11.

In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. There is no indication herein that prior-filed nonprovisional Application No. 10/425,393 (which appears to be the only application herein which can claim benefit of the prior-filed provisional applications) properly referenced the prior-filed provisional applications. Therefore, petitioner must also demonstrate that a proper reference was made in Application No. 10/425,393, to the prior-filed provisional applications. *See* MPEP Section 201.06(d). Accordingly, for the reasons set out above, the amendment as presented is unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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. No additional petition fee is required.

The statement of unintentional delay only references 37 CFR 1.78(a)(5), whereas the statement should have referenced both 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Nevertheless, the statement presented will be construed as meaning 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." If this is not a correct reading of the statement appearing in the petition, petitioner should so indicate in the renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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GLOVSKY AND POPEO, P.C.
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BOSTON, MA 02111

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Subhir Srinivasan et al :
Application No. 10/832,660 : DECISION DISMISSING PETITIONS
Filed: April 26, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 26680-035 CON :

This is a decision on the renewed petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed revised amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition still does not satisfy item (1). The amendment as drafted is unacceptable since it improperly states that Application No. 09/950,555, filed September 11, 2001, claims priority to provisional Application No. 60/395,839, filed July 15, 2002. The amendment reads:

> This application is a continuation of and claims priority to U.S. Application No. 10/425,393 filed April 29, 2003 which is a continuation-in-part of U.S. Application No. 09/950,555 filed September 11, 2001, which claims priority to U.S. Provisional Application No. 60/232,102 filed September 12, 2000 * * * and Provisional Application No. 60/395,839 filed July 15, 2002.

As Application No. 09/950,555 has a filing date of September 11, **2001**, it cannot directly claim the benefit of provisional Application No. 60/395,839 filed July 15, **2002**, because its date of filing is later than the filing date of Application No. 09/950,555. The date of filing of the provisional application must have a filing date prior to the filing date of Application No. 09/950,555.

The amendment further states that "This application, through Application No. 10/425,393, also claims priority to * * * 60/447,720 * * *, 60/447,722 * * *, 60/447,723." From the wording of the amendment, it appears that petitioner may be attempting to claim priority from nonprovisional Application No. 10/425,393, filed April 29, 2003, to provisional Application Nos. 60/395,839, filed July 15, 2002; 60/447,720, filed February 19, 2003; 60/447,722, filed February 19, 2003; and 60/447,723, filed February 19, 2003. However, it is noted in a review of the computer database records that Application No. 10/425,393 fails to disclose the presence of a proper chain for benefit of priority to provisional Application Nos. 60/447,720, 60,447,722 and 60/447,723. It would be improper to accept a late claim for priority in this application if in fact a proper chain for benefit of priority to the above-noted provisional applications was not made in Application No. 10/425,393.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

Accordingly, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), along with either an Application Data Sheet or an amendment complying with the provisions of 37 CFR 1.121 and which corrects the above-noted defects must be submitted for acceptance of a delayed claim for benefit of priority to the prior-filed applications noted in the amendment filed with the petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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1201 SOUTH 2ND STREET
MILWAUKEE WI 53204

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OFFICE OF PETITIONS

In re Application of :
Gary Dan Dotson :
Application Number: 10/832668 :
Filing Date: 04/27/2004 :
Attorney Docket Number: :
04AB214A/ALBRP321USA :

DECISION ON PETITION

This is a decision on the petition filed on October 17, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on August 19, 2007, for failure to timely file a response to the Notice to File Corrected Application Papers--*Notice of Allowance Mailed* mailed on June 18, 2007, which set a two (2) month period for reply. On August 2, 2007, the issue fee was paid. On September 26, 2007, Notice of Abandonment was mailed.

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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 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)).

Petitioner has filed a replacement sheet for Figure 3 as the required reply.

This application is being referred to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARSTENS & CAHOON, LLP
P. O. BOX 802334
DALLAS, TX 75380

MAIL

APR 25 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Wilfred Marcellien Bourg, Jr. *et al.* :
Serial No.: 10/832,676 :
Filed: April 27, 2004 :
For: METHOD FOR ON-LINE MACHINE VISION MEASUREMENT, MONITORING AND CONTROL OF ORGANOLEPTIC PROPERTIES OF PRODUCTS FOR ON-LINE MANUFACTURING PROCESSES :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed April 27, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 4a, 4b, 4c, 5, 6, 7, 9, 10a, 10b, 11, 12a, 12b, 12c, 15a, 15b, 16a, 17a, 17b, 19, 21a, 21b, 21c, 23, 29a, 29b, 29c, 29d, 29e, 29f, 29g, 29h, 35, 36, 37a, 37b, 37c, 38a, 38b, 39, 51a, 51b, 51c, 51d, 51e, 51f, 51g, 51h, 51i, 52, 53a, 53b, 53c, 53d, 54a, 54b, 54c, 54d, 55a, 55b, 55c, 55d, 55e, 55f, 56a, 56b, 56c, 56d, 56e, 56f 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) sets 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**.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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NOV 23 2009

OFFICE OF PETITIONS

IP ADVISORS
CHRISTOPHER HAIGH
150 N MICHIGAN AVE.
STE. 2800
CHICAGO, IL 60601

In re Application of	:	
George P. JONES, et al	:	
Application No. 10/832,681	:	DECISION ON PETITION
Filed: April 27, 2004	:	TO WITHDRAW
Attorney Docket No. 4327/3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of correspondence address was not accompanied by a proper power of attorney.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Mark D. Caplan	: DECISION ON REQUEST FOR
Patent Number	: 7585159	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: Brant D. Thomsen	: DECISION ON REQUEST FOR
Patent Number	: 7660990	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1285** 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

Ansel M. Schwartz
Attorney at Law
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

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NOV 30 2006

OFFICE OF PETITIONS

In re Application of Perlin et al. :
Application No. 10/832,701 : Decision on Petition
Filing Date: April 27, 2004 :
Attorney Docket No. NYU-11 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 19, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JHK Law
P.O. Box 1078
La Canada CA 91012-1078

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Min-Young KIM et al :
Application No. 10/832,713 :
Filed: 4/26/2004 :
Attorney Docket No. 12040-03USA :

This is a decision on the petition under 37 CFR 1.137(b), filed 3/31/2008, 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, 10/26/2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 1/27/2007.

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 amendment; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of 10/26/2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on 3/31/2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-2486.

The Request for Continued Examination (RCE) cannot be filed until such time as the Office Action has been made final or prosecution is closed. Prosecution is closed means that the application is under appeal, or that the last Office action is a final action (37 CFR 1.113), or an action that otherwise closes prosecution in the application (such as an Ex parte Quayle). Since the action of 10/26/2006 was not final and prosecution was not closed, the RCE filed concurrently with the instant petition is not proper. Thus, the $405 RCE fee submitted with the petition on 3/31/2008 is unnecessary and will be credited to petitioner's deposit account 50-2486.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1655 for appropriate action on the concurrently filed amendment.

Clifford Bottoff

for David A. Bucci
Petitions Examiner
Office of Petitions

Electronic Patent Application Fee Transmittal

Application Number:	10832713
Filing Date:	26-Apr-2004
Adjustment date: 05/07/2008 CKHLOK 04/01/2008-INTEFSW 00000159 10832713 02 FC:2253 -525.00 OP 03 FC:2801 -405.00 OP **Title of Invention:** Refund Ref: 05/07/2008 0030055196 --- Credit Card Refund Total: $930.00 Am Exp..: XXXXXXXXXXX1008	Composition containing horse chestnut extract
First Named Inventor/Applicant Name:	Min-Young Kim
Filer:	Hyo Suk Kim/Claire Rhee
Attorney Docket Number:	12040-03USA

Filed as Small Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Petition-revive unintent. abandoned appl	2453	1	770	770
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension - 3 months with $0 paid	2253	1	525	525
Miscellaneous:				
Request for continued examination	2801	1	405	405
		Total in USD ($)		**1700**

Nonetheless, Applicants' review of the cited JP document indicates that it fails to correct the deficiencies in the combination of the '404 and '153 patents. This corresponds with the Office's position in the Action mailed June 22, 2005, which indicates that the JP document is only relied upon for reporting various amounts of horse chestnut extract (see page 6 of that Action).

Applicants have explained the deficiencies in the combination of the '404 and '153 patent above, and these deficiencies are not remedied by the addition of the cited JP document. Therefore, and for the reasons presented above, Applicants respectfully submit that no *prima facie* case of obviousness is present. This rejection may therefore be properly withdrawn.

Conclusion

It is believed that the application is now in condition for allowance. Applicants request the Examiner to issue a notice of Allowance in due course. The Examiner is encouraged to contact the undersigned to further the prosecution of the present invention.

The Commissioner is authorized to charge JHK Law's Deposit Account No. **502486** for any fees required under 37 CFR §§ 1.16 and 1.17 that are not covered, in whole or in part, by a check enclosed herewith and to credit any overpayment to said Deposit Account No. **502486**.

Respectfully submitted,

JHK Law

Dated: March 31, 2008

By: /Joseph Hyosuk Kim/
Joseph Hyosuk Kim, Ph.D.
Reg. No. 41,425

P.O. Box 1078
La Canada, CA 91012-1078
(818) 249-8177 - direct
(818) 249-8277 - fax

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)
12040-03USA

First named inventor: Min-Young KIM

Application No.: 10/832,713 Art Unit: 1654

Filed: April 26, 2004 Examiner: COE, S.D.

Title: COMPOSITION CONTAINING HORSE CHESTNUT EXTRACT

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment Under 37 C.F.R. §1.111 and RCE (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Joseph Hyosuk Kim/	March 31, 2008
Signature	Date
Joseph Hyosuk Kim, Ph. D.	41,425
Typed or printed name	Registration Number, if applicable
P.O. Box 1078	818-249-8177
Address	Telephone Number
La Canada, CA 91012-1078	
Address	

Enclosures:
- ☑ Fee Payment
- ☑ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☑ Other: RCE

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 12040-03USA

First named inventor: Min-Young KIM

Application No.: 10/832,713 Art Unit: 1654

Filed: April 26, 2004 Examiner: COE, S.D.

Title: COMPOSITION CONTAINING HORSE CHESTNUT EXTRACT

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment Under 37 C.F.R. §1.111 and RCE (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Joseph Hyosuk Kim/	March 31, 2008
Signature	Date
Joseph Hyosuk Kim, Ph. D.	41,425
Typed or printed name	Registration Number, if applicable
P.O. Box 1078	818-249-8177
Address	Telephone Number
La Canada, CA 91012-1078	
Address	

Enclosures:
- ☑ Fee Payment
- ☑ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☑ Other: RCE

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	04/25/08	2 Serial/Patent #	10/832,713

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time *	3/31/2008		$ 525.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert. of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other (RCE) **	3/31/2008		$ 405.00

7 TOTAL AMOUNT OF REFUND: $ 930.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 2 4 8 6

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

*Extension of time unnecessary, since submitted after maximum extendable period for reply.

**RCE fee unnecessary, due to improper RCE as last Office action was not final and prosecution not closed.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: David A. Bucci TITLE: Petitions Examiner

SIGNATURE: Christ Bratt for David Bucci PHONE: (571) 272-7099

OFFICE: Office of Petitions

****

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APPROVED: CKBK DATE: 5/7/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUN 23 2008

In re Application of :
Horel, et al. :
Application No. 10/832,717 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 040115 :
For: METHODS AND APPARATUS FOR GIFTING OVER A DATA NETWORK

This is a decision on the petition under 37 CFR 1.181, filed April 2, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due, mailed November 6, 2007, which set forth a three (3) month period for reply. On December 20, 2007, a Supplemental Notice of Allowance was mailed along with an Examiner's Amendment with a date for reply of February 6, 2008. A Corrected Notice of Allowance and Fee(s) Due and an Interview Summary were mailed on February 4, 2008. The Corrected Notice of Allowance states that a reply was due on May 5, 2008. On February 14, 2008 another Examiner's Amendment and an Interview Summary were mailed. The Office contended that this application became abandoned on February 7, 2008 for failure to respond to the November 6, 2007 Notice of Allowance and Fee(s) Due. A Notice of Abandonment was mailed on March 4, 2008.

Petitioner asserts the application is not abandoned because the examiner, in effect, withdrew the November 6, 2007 Notice of Allowance and Fee(s) Due when the February 4, 2008 Notice of Allowance and Fee(s) Due was mailed.

A review of the official application file reveals that the February 4, 2008 Notice of Allowance and Fee(s) Due was a corrected Notice. It set a new period for response and appears to have been intended to replace the November 6, 2007 Notice of Allowance and Fee(s) Due.

In light of the above, the petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the March 4, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

It is noted that the due date for response to the February 4, 2008 Notice of Allowance and Fee(s) Due was May 5, 2008. A review of Office financial records for this application reveals that the issue fee and publication fees have not been paid. As petitioners filed the present petition to withdraw the holding of abandonment, the undersigned assumes that petitioners wish to avoid abandonment. Therefore, deposit account no. 17-0026 will be charged the $1,400.00 issue fee and the $300.00 publication fee due.

The application will be forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Dec-07

JAMES T. ROBINSON
222 E. MAIN STREET
NORMAN OK 73069

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of :
Richard S. Neal :
Application Number: 10/832719 :
Filing Date: 04/26/2004 :
Attorney Docket Number: NEA106 :

DECISION ON PETITION

This is a decision on the petition filed on October 12, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on February 9, 2007, for failure to timely respond to the Office action requiring restriction and/or election mailed on January 8, 2007, which set a one (1)-month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on August 6, 2007.

Receipt of the election without traverse filed on October 12, 2007, is acknowledged.

This application is being referred to Technology Center Art Unit 1744 for further processing.

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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:

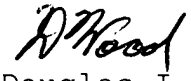
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, 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)).

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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BULLWINKEL PARTNERS LTD
SUITE 1300
19 S LASALLE STREET
CHICAGO IL 60603-1493

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Steven G. Whitney :
Application No. 10/832,728 : ON PETITION
Filed: April 27, 2004 :
:

This is a decision on the petition to revive under 37 CFR 1.137(a), filed November 28, 2006.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed May 5, 2006. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on June 6, 2006. A Notice of Abandonment was mailed on November 20, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent

person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner argues that he timely filed a reply to the non-final Office action by depositing it with the U.S. Postal Service, but for reasons unknown it was lost or not delivered. In support thereof, petitioner has included a copy of an Amendment, bearing a timely Certificate of Mailing dated June 2, 2006.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

The application is being forwarded to Group Art Unit 3634 for consideration of the amendment filed November 28, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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HOUSTON TX 77082

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APR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Clair, et al.	:	
Application No. 10/832,733	:	ON PETITION
Filed: April 27, 2004	:	
Attorney Docket No. W0031	:	

This is a decision on the "PETITION TO ACCEPT LATE PAYMENT OF ISSUE FEE UNDER 37 CFR 1.137(a)", filed January 19, 2007, which is being treated petition to revive an unavoidably abandoned application under 37 CFR 1.137(a).

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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 26, 2006. This Notice set a statutory period for reply of three (3) months. Applicants filed an issue fee transmittal form on October 10, 2006, authorizing the Office to

charge the issue and publication fees to their deposit account. However, the deposit account did not contain a sufficient balance. Accordingly, the application became abandoned on December 27, 2006. The mailing of this decision precedes the mailing of a courtesy 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; (2) the petition fee required by 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (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.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As to requirement (3), petitioner has not met his burden of establishing that the delay was unavoidable.

Petitioner argues that he never received a Notice of Fee Due which PAIR indicates was prepared on October 10, 2006. However, the paper is an internal Office document, created in order to show that a fee was attempted to be charged to petitioner's deposit account, but was unable to be charged due to insufficient funds. The paper is merely placed into the application file as a notice to other Office employees - it is not meant to be mailed to applicants.

If petitioner can not meet the showing required to establish unavoidable delay, petitioner may seek to revive the application under 37 CFR 1.137(b) - unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Receipt of the petition fee, issue fee, and publication fee is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON TX 77082

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of :
Clair, et al. :
Application No. 10/832,733 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. W0031 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 9, 2007.

The petition under 37 CFR 1.137(a) is **GRANTED.**

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 26, 2006. This Notice set a statutory period for reply of three (3) months. Applicants filed an issue fee transmittal form on October 10, 2006, authorizing the Office to charge the issue and publication fees to their deposit account. However, the deposit account did not contain a sufficient balance. Accordingly, the application became abandoned on December 27, 2006. Applicant filed a petition to revive under 37 CFR 1.137(a) on January 19, 2007. However, the petition was dismissed in a decision mailed on April 9, 2007.

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 and publication fees.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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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JJGJR.: 12-04

Paper No: __

FITCH EVEN
TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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DEC 0 9 2004

OFFICE OF PETITIONS

In re Application of
Powell, et al.
Application No. 10/832,740
Filed: 26 April, 2004
Attorney Docket No. 81725/7545

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 19 August, 2004

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 26 April, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 8 July, 2004, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 8 September, 2004;

- the 8 September, 2004, petition under 37 C.F.R. §1.47, (filed with, *inter alia*, an oath/declaration signed by named inventor Finch, but without the signature of Joseph S. Powell (Mr. Powell) and Randall Brown (Mr. Brown), and narrative by Petitioner Steven M. Freeland (Reg. No. 42,555) and assignee vice president of operations Dale Sheet and

additional documentation evidencing that the entire application was transmitted to the non-signing inventors at their last known addresses, but that they failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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JJGJR.: 12-04

Paper No: __

RANDALL BROWN
3943 SEQUOIA STREET
SAN DIEGO, CA 92109

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DEC 0 9 2004

OFFICE OF PETITIONS

In re Application of
Powell, et al. :
Application No. 10/832,740 : COMMUNICATION
Filed: 26 April, 2004 :
Attorney Docket No. 81725/7545 :

Dear Randall Brown:

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:
FITCH EVEN
TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JJGJR.: 12-04

Paper No: __

JOSEPH S. POWELL
320 JOANN STREET
COSTA MESA, CA 92626

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DEC 0 9 2004

OFFICE OF PETITIONS

In re Application of
Powell, et al.
Application No. 10/832,740
Filed: 26 April, 2004
Attorney Docket No. 81725/7545

COMMUNICATION

Dear Joseph S. Powell:

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:
FITCH EVEN
TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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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PRICE, HENEVELD, COOPER, DEWITT, & LITTON,
LLP/GENTEX CORPORATION
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

Mail Date: 04/21/2010

Applicant	: Alan R. Watson	: DECISION ON REQUEST FOR
Patent Number	: 7616768	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1565** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
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STEFAN V. CHMIELEWSKI
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF MAIL CODE: CT10C
P.O. BOX 9005
KOKOMO 46904-9005 IN INDIA

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OFFICE OF PETITIONS

In re Application of :
Seyed R. Zarabadi :
Application No. 10/832,755 : ON PETITION
Filed: April 17, 2004 :
Attorney Docket No. DP-311955 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

The correspondence address submitted with petition on September 1, 2006 is not accepted. The correspondence address was sign by Jimmy L. Funke. The Office record does not show Jimmy L. Funke as the attorney or agent of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert M. Sigler
Legal Staff M/C: 480-410-202
P.O. Box 5052
Troy, MI 48007-5052

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Paper No. None

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Daniel J. Shoff et al. :
Application No. 10/832,763 :
Filed: July 21, 2004 : DECISION ON PETITION
Attorney Docket No. MS1-089USC3 :
Title: INTERACTIVE ENTERTAINMENT :
SYSTEM FOR PRESENTING :
SUPPLEMENTAL INTERACTIVE CONTENT :
TOGETHER WITH CONTINUOUS VIDEO :
PROGRAMS :

This is a decision on the petition filed July 21, 2004.

On April 26, 2004, the above-identified application was deposited. On July 12, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figure 8a appeared to have been omitted. The Notice set a two-month period for response.

On July 21, 2004, Petitioner correctly submitted a "Petition for Acceptance of Later Filing Date Under 37 C.F.R. §1.182," along with Figure 8a and payment of the petition fee. Based on this petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawing as the filing date.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of July 21, 2004**, the date of receipt of the formerly omitted item, Figure 8a, using the original application papers filed April 26,

2004, and the Figure submitted with the instant petition on July 21, 2004. **OIPE will then mail a corrected filing receipt.**

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov
DIW Jun-07

JOHN B. HARDAWAY, III
NEXSEN PRUET JACOBS & POLLARD, LLC
P.O. BOX 10107, FED. STA.
GREENVILLE SC 29603-0107

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JUN 14 2007

OFFICE OF PETITIONS

In re Patent No. 7081141	:	
Issued: 07/25/2006	:	
Application No. 10/832766	:	ON PETITION
Filed: 04/27/2004	:	
For: ELECTROLYTE FOR ELECTOLYTIC CAPACITOR	:	

This is a decision on the petition filed on 23 October, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

As the Certificate of Correction fee was previously paid with the submission filed on 8 September, 2006, the duplicate fee submitted with the present petition will be credited to counsel's deposit account.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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McDERMOTT WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE
SUITE 700
SAN DIEGO, CA 92122

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Susan M. Freier et al :
Application No. 10/832,777 : DECISION GRANTING PETITION
Filed: April 27, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 058823-0042 :

This is a decision on the petition, filed August 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\832777.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

DATE: 8-9-07 APPLICATION NUMBER: 10/832,777

DOC CODE: IDS DOC DATE: 8-9-07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES 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 : August 9, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/832,777**

Applicant(s) : Susan M. Freier et al
Application No. : 10/832,777
Filed : April 27, 2004

The above-identified application has been assigned Patent No. 7,256,285 and an issue date of August 14, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 14, 2007:

"All reference to Patent No. 7,256,285 to Susan M. Freier et al of California for MODULATION OF GLUCAGON RECEPTOR EXPRESSION appearing in the Official Gazette of August 14, 2007 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney
Betty Powell

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

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MAY 19 2008

OFFICE OF PETITIONS

In re
Freier, et al.
Application No. 10/832,777
Filed: April 27, 2004
Attorney Docket No. BIOL007US

: DECISION REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed January 18, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight-six (86) days to one hundred sixteen (116) days.

The application for patent term adjustment is **DISMISSED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 18, 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 eighty-six (86) days. On January 18, 2008, Applicants timely[1] submitted the instant application for patent term adjustment.

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of sixty-six (66) days based on an adjustment of one hundred thirty-six (136) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by fifty (50) days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(8), for filing an IDS on December 14, 2006, after Applicants had previously filed an Amendment on October 25, 2006. The adjustment of 50 days is at issue.

A review of the application file indicates that the December 14, 2006 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 (i.e., IDS Form) was first cited in a communication from a foreign patent office in a counterpart application"... and that "this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement." With the instant application for patent term adjustment, applicants have included a new certification, stating that "each item of information contained in the Information Disclosure Statement (i.e., IDS Form) was first cited in a communication from **any** foreign patent office in a counterpart 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.

Applicants should have mirrored the language of "first cited in any communication" as required by § 1.704(d). Accordingly, applicant delay of fifty (50) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In addition, Applicants point out that they should have been assessed delay on three separate occasions for filing an amendment or other paper after the mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.704(c)(10). The Office mailed a Notice of Allowance on January 5, 2007. In the first instance, Applicants filed an Amendment and a petition under 37 C.F.R. § 1.48 on April 5, 2007. The Office responded by mailing a communication on April 19, 2007. Accordingly, fifteen

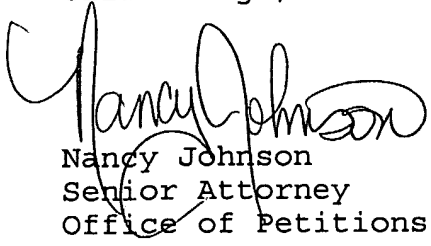
(15) days of applicant delay should have been assessed. Secondly, Applicants filed a Rule 312 Amendment on July 10, 2007. The Office mailed a response on July 12, 2007, and as such, three (3) days of applicant delay should have been assessed. Lastly, Applicants filed a petition to withdraw from issue, a request for continued examination (RCE) and information disclosure statement on August 8, 2007. These paper were filed after the payment of the issue fee on April 5, 2007 and after the mailing of the Notice of Allowance mailed January 5, 2007. As such, the filing of these papers constituted applicant delay within the meaning of 37 C.F.R. § 1.704(c)(10). The period of reduction is seventy-one (71) days, counting the number of days in the period beginning on August 8, 2007, and ending on the "mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper," October 17, 2007, the day the Office mailed the Notice of Allowance. As such, seventy-one (71) days of applicant delay should have been assessed with respect to this filing.

In view thereof, the correct determination of patent term adjustment is **zero (0) days** (136 days of PTO delay, reduced by 139 (50+15+3+71) days of applicant delay).

Receipt of the $200 fee under 37 C.F.R. § 1.18(e) is acknowledged.

The file is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Nancy Johnson
Senior Attorney
Office of Petitions

Enc: updated PAIR screen

Day : Thursday
Date: 5/15/2008

PALM INTRANET

Time: 13:10:11

PTA Calculations for Application: 10/832777			
Application Filing Date:	04/27/2004	PTO Delay (PTO):	136
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	50
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-89		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
111	05/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		71	
110	05/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
109	05/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		15	
99	10/18/2007	MAIL NOTICE OF ALLOWANCE			
98	10/16/2007	ISSUE REVISION COMPLETED			
97	10/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
96	10/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	10/02/2007	REFERENCE CAPTURE ON IDS			
94	10/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	10/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
92	09/04/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
91	09/04/2007	DOCUMENT VERIFICATION			
90	09/04/2007	NOTICE OF ALLOWABILITY			
89	08/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	08/08/2007	REFERENCE CAPTURE ON IDS			
86	08/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	08/09/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
84	08/09/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
83	08/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

82	08/08/2007	PETITION ENTERED			
81	08/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
80	07/25/2007	ISSUE NOTIFICATION MAILED			
79	08/14/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
78	07/16/2007	WORKFLOW - QUERY REQUEST - FINISH			
77	07/13/2007	TC RETURN TO PUBS			
76	07/12/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
75	07/11/2007	TC RETURN TO PUBS			
74	07/11/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
73	07/10/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
72	07/10/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
71	06/15/2007	PUBS CASE REMAND TO TC			
70	06/27/2007	CORRESPONDENCE ADDRESS CHANGE			
69	06/27/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
68	06/13/2007	WORKFLOW - QUERY REQUEST - BEGIN			
67	04/25/2007	EXPORT TO FINAL DATA CAPTURE			
66	04/24/2007	DISPATCH TO FDC			
65	04/19/2007	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO INVENTOR IN APPLICATION			
64	04/05/2007	PETITION ENTERED			
63	04/05/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
62	04/19/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
61	04/17/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
60	04/05/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
59	04/05/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
58	04/05/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
57	04/12/2007	CORRESPONDENCE ADDRESS CHANGE			
56	04/06/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
55	04/05/2007	ISSUE FEE PAYMENT VERIFIED			

54	04/05/2007	ISSUE FEE PAYMENT RECEIVED			
53	03/06/2007	TC RETURN TO PUBS			
52	02/28/2007	FINISHED INITIAL DATA CAPTURE			
51	12/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	01/19/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
49	01/08/2007	EXPORT TO INITIAL DATA CAPTURE			
48.7	12/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		50	40
48	12/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	01/05/2007	MAIL NOTICE OF ALLOWANCE			
46	12/15/2006	ISSUE REVISION COMPLETED			
45	12/15/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	12/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
43	12/11/2006	NOTICE OF ALLOWABILITY			
42	08/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	11/06/2006	DATE FORWARDED TO EXAMINER			
40	10/25/2006	AMENDMENT AFTER FINAL REJECTION			
39.7	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	08/21/2006	FINAL REJECTION			
36	06/13/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	06/18/2006	DATE FORWARDED TO EXAMINER			
34	06/14/2006	RESPONSE AFTER NON-FINAL ACTION			
33	04/10/2006	MAIL SUPPLEMENTAL NON-FINAL ACTION			
32	03/30/2006	SUPPLEMENTAL NON-FINAL ACTION			
31	03/14/2006	MAIL NON-FINAL REJECTION			
30	03/06/2006	NON-FINAL REJECTION			
29	08/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	02/02/2006	CASE DOCKETED TO EXAMINER IN GAU			

26	12/28/2005	DATE FORWARDED TO EXAMINER			
25	12/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
24	11/10/2005	MAIL RESTRICTION REQUIREMENT	136		-1
23	11/08/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
22	08/29/2005	REFERENCE CAPTURE ON IDS			
21.7	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/02/2004	REFERENCE CAPTURE ON IDS			
19	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/11/2005	CORRESPONDENCE ADDRESS CHANGE			
17	10/11/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	12/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	11/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/13/2004	APPLICATION RETURN FROM OIPE			
12	09/13/2004	APPLICATION RETURN TO OIPE			
11	09/13/2004	APPLICATION DISPATCHED FROM OIPE			
10	09/13/2004	APPLICATION IS NOW COMPLETE			
9	08/16/2004	ADDITIONAL APPLICATION FILING FEES			
8	08/19/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	06/21/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	06/01/2004	CLEARED BY OIPE CSR			
5	06/01/2004	CASE CLASSIFIED BY OIPE			
4	05/14/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	05/11/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	04/27/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

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5200 BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA, GA 30308-2216

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APR 08 2010

OFFICE OF PETITIONS

In re Application of
Tamio SAITO
Application No. 10/832,781
Filed: April 26, 2004

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 24, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 23, 2009 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2435 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

CC: Tamio Saito
645 Stendhal Ln
Cupertino, CA 95014

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FENWICK & WEST, LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of :
WONG, et al. :
Application No. 10/832,785 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. **CISCP555** : 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, 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 September 21, 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: **BEYER WEAVER, LLP**
P.O. BOX 70250
OAKLAND, CAC 94612-0250

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 3, 2006

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/832786 patent No.: 7,109,571

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: Allowed claims are 10-28 - renumbered to 1-19. Claim 19 corresponds to claim 28.

SPE

2822
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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GLEN E. VON TERSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of :
Alex S. Warshavsky, et al. :
Application No. 10/832,790 : DECISION ON PETITION
Filed: April 26, 2006 : TO WITHDRAW
Attorney Docket No. 5306.P011X : 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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman LLP has been revoked by the assignee of the patent application on August 21, 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
August, TX 78759

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-10-06

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/137662 Patent No.: 6819438

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

E. James

Certificates of Correction Branch

703-308-9390 ext. _____

Please check top
this is second request.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

_____ 2877.

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Gary Don Ellis, et al. :
Application No. 10/832,799 : DECISION ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 23072-002001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 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, December 20, 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 March 21, 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 $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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain

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that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1756 for appropriate action by the Examiner in the normal course of business on the reply received October 12, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

Copied from 11832799 on 04/25/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MAIL

DEC 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

R. Michael Ananian
DORSEY & WHITNEY LLP
Intellectual Property Department
4 Embarcadero Center
Suite 3400
San Francisco, CA 94111

In re Application of:
Walter A. Hubis
Application No. 10/832,800
Filed: September 14, 2004
For: STORAGE NETWORK AND METHOD FOR STORAGE NETWORK DEVICE MAPPING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 14, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 14, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: INTERNATIONAL BUSINESS MACHINES CORPORATION
New Orchard Road
Armonk, NY 10504

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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APR 23 2008

In re Application of
Walter A. Hubis
Application No. 10/832,800
Filed: April 26, 2004
Attorney Docket No.: **MLX920000045US2**

ON PETITION

This is a decision on the petition filed April 3, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 6, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 7, 2007. Accordingly, a Notice of Abandonment was mailed March 24, 2008.

This matter is being referred to Technology Center 2141 for appropriate action on the amendment filed April 3, 2008.

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

---

[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)).

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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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GRAYBEAL JACKSON HALEY LLP
Suite. 350
155-108th Avenue N.E.
Bellevue, WA 98004-5973

Mail Date: 04/21/2010

Applicant	: Roland Marbot	: DECISION ON REQUEST FOR
Patent Number	: 7580496	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1382** 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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Banihashemi, et al. :
Application No. 10/832,806 : DECISION ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 04-406 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 5, 2008 for failure to reply in a timely manner to the non-final Office action, mailed March 4, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed September 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the non-final Office action, (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 Technology Center AU 2193 for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITER WEST PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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OFFICE OF PETITIONS

In re Application of
Drelicharz, et al.
Application No.: 10/832,814
Filed: April 26, 2004
Attorney Docket No.: AHN 03-1-2
For: INTEGRATED HEALTHCARE INFORMATION SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 25, 2004 (certificate of mailing date August 23, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 26, 2004 without an executed oath or declaration. On August 11, 2004, a Notice to File Missing Parts of Application was mailed. This Notice required petitioners to submit filing fees, an executed declaration, and a surcharge for their late filing within two months of the August 11, 2004 mail date of the Notice. A petition, petition fee, filing fees, surcharge, and declaration executed by 7 of 10 joint inventors was filed on August 25, 2004 (certificate of mailing date August 23, 2004).

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that the non-signing inventors, Radhakrishna Sarma Prakhya, Kalyanaraman Rajaram, and Krishna M. Kumar, have refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Petitioners have provided the Office with each non-signing inventor's last known address. Were the application papers mailed to the last known address of the inventors? The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. A complete

copy of the application, including specification, claims and drawings, and the declaration should be mailed to their last known address with the request that they sign the declaration.

Any written refusal should be included as documentary evidence in the reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

The petition is accompanied by redacted e-mail communications that establishes Baiju Sankaran does not know where the three non-signing inventors are located. It is unclear who Baiju Sankaran is in relation to the invention and it is not clear what efforts were made to locate the inventors.

If petitioners are alleging that the inventors cannot be located, other attempts to reach them are required. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories and national registries; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

If the application papers mailed to each non-signing inventor are/were returned, and other efforts to locate the inventor fail(ed), then applicants will establish that the inventor cannot be reached.

Documentary evidence that supports a finding that the non-signing inventors could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration 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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

SUITER WEST PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Drelicharz, et al.
Application No.: 10/832,814
Filed: April 26, 2004
Attorney Docket No.: AHN 03-1-2
For: INTEGRATED HEALTHCARE INFORMATION SYSTEM

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 11, 2005 (certificate of mailing date May 9, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventors, Radhakrishna Sarma Prakhya, Kalyanaraman Rajaram, and Krishna M. Kumar, cannot be reached. Specifically, declarations/statement of facts that accompany the reconsideration petition establish that the inventors were mailed the application papers, including the specification, claims and drawings, but the packages were either returned or signed for by individuals other than the inventors. A private investigator hired specifically to locate the non-signing inventors ran a number of Internet searches, but could not locate the non-signing inventors in India. Petitioners have shown that despite diligent efforts, the non-signing inventors cannot be located. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioners were charged two petition fees. Only one is required. The $200.00 petition fee charged on May 12, 2005 will be credited to deposit account no. 19-4882.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
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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RADHAKRISHNA SARMA PRAKHYA
NEW NO. 38 (OLD NO. 32)
2ND STREET
VYASAR NAGAR
CHENNAI 600 039
INDIA

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Drelicharz, et al.
Application No.: 10/832,814
Filed: April 26, 2004
Attorney Docket No.: AHN 03-1-2
For: INTEGRATED HEALTHCARE INFORMATION SYSTEM

LETTER

Dear Mr. Prakhya:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

C Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SUITER WEST PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

UNITED STATES PATENT AND TRADEMARK OFFICE

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KALYANARAMAN RAJARAM
26/7, SHANTHI APARTMENTS
VENKATRAMAN STREET
PERAMBUR
CHENNAI 600 011
INDIA

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Drelicharz, et al.
Application No.: 10/832,814
Filed: April 26, 2004
Attorney Docket No.: AHN 03-1-2
For: INTEGRATED HEALTHCARE INFORMATION SYSTEM

LETTER

Dear Mr. Rajaram:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SUITER WEST PC LLO
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ADYAR
CHENNAI 600 020
INDIA

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Drelicharz, et al.
Application No.: 10/832,814
Filed: April 26, 2004
Attorney Docket No.: AHN 03-1-2
For: INTEGRATED HEALTHCARE INFORMATION SYSTEM

LETTER

Dear Mr. Kumar:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SUITER WEST PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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Jeffrey R. Ramberg, Esq.
M Cubed Technologies, Inc.
1 Tralee Industrial Park
Newark DE 19711

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OFFICE OF PETITIONS

In re Application of
Karandikar
Application No. 10/832,823
Filed: April 26, 2004
Docket No.: M-102-C

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 11, 2008.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed December 11, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment July 11, 2008.

Petitioner asserts that a reply to the non-final Office action, which consisted of an amendment and a petition for one month extension of time were submitted April 11, 2008 via facsimile in accordance with 37 CFR 1.8. Petitioner has submitted a copy of the reply bearing a certificate of facsimile date of April 11, 2008 in accordance with 37 CFR 1.8. Petitioner has also provided a copy of a USPTO Auto-Reply Facsimile Transmission which reflects receipt of the required reply.

The original response filed April 11, 2008 has not been located in the application file. However, in view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The copy of the reply submitted herewith will be used for examination.

The required one month extension of time has been charged to petitioners' deposit account, as authorized.

The application file is being forwarded to the Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2007

TO SPE OF : ART UNIT 3736 10/832824

SUBJECT : Request for Certificate of Correction on Patent No.: 7037260 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

1. Changes to Cover Sheet – Denied: because Petition to Correct inventorship ~~was not~~ does not appear to be approved
2. Colum 1 changes → Denied: changes date effect affects prior ART.
3. Colum 12 changes → ~~Claims~~ Denied: Claims are numbered correctly.

SPE

for 3769
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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DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #E
NEWPORT BEACH, CA 92661

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Barker, Garen S.	:	
Application No. 10/832,835	:	ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. BARKER	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Patrick Anthony Defeo	: DECISION ON REQUEST FOR
Patent Number	: 7579418	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,849	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1192** 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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WILMINGTON, DE 19805

Mail Date: 05/17/2010

Applicant : Patrick Anthony Defeo
Patent Number : 7579418
Issue Date : 08/25/2009
Application No: 10/832,849
Filed : 04/27/2004

: 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 **1234** 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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OPPEDAHL PATENT LAW FIRM LLC – VAI
P.O. BOX 4850
FRISCO, CO 80443-4850

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Paul Waterhouse et al :
Application No. 10/832,853 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. VAI.P-014 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/566,135.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on December 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. .

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: M. Jason August
2300 Southfield Road
Mississavga, Ontario

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/23/07	2 Serial/Patent # 10/832,853

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time 2253		12/01/06	$ 510.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

Credit Card

7 TOTAL AMOUNT OF REFUND $ 510.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

The Extension of Time period is over; no extension fee is due.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Irvin Dingle TITLE: Paralegal

SIGNATURE: Irvin Dingle PHONE: 571-272-3210

OFFICE: Petitions

****

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APPROVED: _____ DATE: _____

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04/26/2007 0030039944

Credit Card Refund Total: $510.00

Acct Exp..: XXXXXXXXXX1003

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577 (01/90)

Adjustment date: 04/26/2007 AKELLEY
12/04/2006 INTEFSW 00000838 10832853
02 FC:2253 -510.00 OP

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1969 KELLOGG AVENUE
CARLSBAD, CA 92008

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OFFICE OF PETITIONS

In re Application of :
John SANTHOFF, et al :
Application No. 10/832,868 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 058-123 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed January 4, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 3, 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(s) 1.

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 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). The petition is not accompanied by the required reply.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

April Wise
Petition Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/832,868	**Applicant(s)** SANTHOFF ET AL.	
	Examiner David B. Lugo	**Art Unit** 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: *47 and 48*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

David B. Lugo

DAVID B. LUGO
PRIMARY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLSBAD, CA 92008

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JUL 2 1 2008

In re Application of :
John SANTHOFF, et al :
Application No. 10/832,868 : ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 058-123 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 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 January 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 5, 2007.

The first petition to revive this application was filed September 24, 2007 and did not include the required reply. The renewed petition filed June 23, 2008, which included a four (4) month extension of time, 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 $750; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2611 for further processing by the Examiner in the normal course of business.

Christa Bottoff

for Thurman Page
Petitions Examiner
Office of Petitions

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Lloyd Richard Rochester III	: DECISION ON REQUEST FOR
Patent Number	: 7616927	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,890	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1597** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Tania Mazza-Deblauwe	: DECISION ON REQUEST FOR
Patent Number	: 7602795	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/832,922	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 20 2004

DCM

In re Application of :
Chandra Reis :
Serial Number: 10/832,923 : PETITION UNDER
Filed: April 27, 2004 : M.P.E.P.708.02 IX
For: A SYSTEM FOR TRANSMITTING CURRENT :
INCLUDING MAGNETICALLY DECOUPLED :
SUPERCONDUCTING CONDUCTORS :

This is in response to the petition filed April 27, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IX of the MPEP and 37 CFR 1.102 (b) (**no fee required**).

The request for Special Status considered under Section 708.02 IX of the MPEP is granted because criteria under 37 CFR 1.102(b) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO NC 27420

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DANA S. REWOLDT, ESQ.
ADVANTA USA
2369 330TH ST.
BOX 500
SLATER, IA 50244

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OFFICE OF PETITIONS

In re Application of
Larry V. Kaster, Jr., et al.
Application No. 10/832,925
Filed: April 27, 2004
Attorney Docket No. 019-1DIV

ON PETITION

This is a decision in response to the petition, filed December 28, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed May 14, 2007. A Notice of Abandonment was mailed on December 3, 2007. In response, on December 28, 2007, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted December 28, 2007 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., August 15, 2007. Since no extension of time fees are due on a petition for revival, the $1,050 extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1638 for consideration of the amendment filed December 28, 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

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Catalyst Law Group, APC
9710 Scranton Road, Suite S-170
San Diego, CA 92121

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Marcel E. Nimni et al.	:	
Application No. 10/832,933	:	DECISION ON
Filed: April 27, 2004	:	PETITION TO WITHDRAW
Attorney Docket No. 8049-008-US	:	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 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David M. Kohn on behalf of attorney/agents associated with customer number 32301. All attorneys/agents associated with customer number 32301 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marcel E. Mimni
2800 Nielson Way #908
Santa Monica, CA 90405

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/832,933	04/27/2004	Marcel E. Nimni	8049-008-US

CONFIRMATION NO. 4329

32301
CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

POWER OF ATTORNEY NOTICE

OC000000036584904

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ANTHONY P. ONELLO, JR.
MILLS & ONELLO LLP
ELEVEN BEACON STREET, SUITE 605
BOSTON, MA 02108

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Sung-Taeg Kang et al	:	
Application No. 10/832,952	:	DECISION ON PETITION
Filed: April 27, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAM-0525	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 18, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the existence of this petition was not brought to the attention of the deciding official within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/832,968	04/26/2004	3724	1022	00216-556004 / Case 4232B	9	22	4

CONFIRMATION NO. 3451

26161
FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

UPDATED FILING RECEIPT

OC000000014240842

Date Mailed: 10/29/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Frank Edward Brown, Maidenhead, UNITED KINGDOM;
Brian Oldroyd, Reading, UNITED KINGDOM;

Assignment For Published Patent Application

The Gillette Company, a Delaware corporation

Power of Attorney:

S. DELVALLE GOLDSMITH–14383
ALAN K. ROBERTS–17777
Paul West–18947
JULIAN HARRIS COHEN–20302
Thomas Peterson–24790
Donal Tobin–25711
Richard Streit–25765
Joseph H. Handelman–26179
JOHN J. CHRYSTAL–26360
Peter Galloway–27885

Domestic Priority data as claimed by applicant

This application is a CON of 10/653,862 09/03/2003
which is a CON of 09/774,044 01/26/2001 ABN
which is a CON of 09/063,842 04/21/1998 PAT 6,185,823
which is a CON of PCT/US96/18192 11/08/1996

Foreign Applications

UNITED KINGDOM GB 9523040.5 11/10/1995

If Required, Foreign Filing License Granted: 07/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/832,968

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Oval frame razor

Preliminary Class

030

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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DANIEL B. SCHEIN, PH.D., ESQ., INC.
P. O. BOX 68128
Virginia Beach VA 23471

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OFFICE OF PETITIONS

In re Application of :
Intravatola :
Application No. 10/832,983 : DECISION ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. 10396-62 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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, October 17, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 3618 for appropriate action by the Examiner in the normal course of business on the reply received

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Wook Yong Lee, et al. :
Application No. 10/833,009 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 19819-045001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 6, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3744 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: W. KARL RENNER
FISH & RICHARDSON PC
1425 K STREET, NW
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

Date : October 6, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Wook Yong Lee, et al.
Application No. : 10/833,009
Filed : April 28, 2004

The above-identified application has been assigned Patent No. 7,124,600 and an issue date of October 24, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 24, 2006:

> "All reference to Patent No. 7,124,600 to WOOK YONG LEE, ET AL. of REPUBLIC OF KOREA for DISPENSER OF ICEMAKER IN REFRIGERATOR appearing in the Official Gazette of October 24, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Michel Mezza	: DECISION ON REQUEST FOR
Patent Number	: 7576145	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/833,068	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **26** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Yu :
Application No. 10/833,076 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. YUCH3033/CCC :

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed February 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2006. Accordingly, the date of abandonment of this application is May 23, 2006. A Notice of Abandonment was mailed on July 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of payment of the issue fee of $700.00 and the publication fee of $300.00, (2) the petition fee of $750.00; 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. Further, the statement of unintentional delay does not comply with the provisions of 37 CFR 1.137(b)(3). Nevertheless, 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 to pursuant to 37 CFR 1.137(b), was unintentional." If this is an incorrect interpretation in view of the new rules, practitioner is required to provide a statement to that effect. 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 revocation/power of attorney filed on February 13, 2007 has been entered and made of record. Please find enclosed notices regarding the change in power of attorney.

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
Senior Petitions Attorney
Office of Petitions

Enclosure: Notices regarding change in power of attorney

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/833,076	04/28/2004	Chun-Te Yu	BHT-3101-216

CONFIRMATION NO. 3696

OC000000024490263

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

Date Mailed: 06/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

o The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Shirene Willis Bradley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/833,076	04/28/2004	Chun-Te Yu	BHT-3101-216

CONFIRMATION NO. 3696

OC000000024490276

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

Date Mailed: 06/22/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

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.

Spencer Wells Bradley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 14 2008

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/833086 :
Filing or 371(c) Date: 04/28/2004 :
Attorney Docket Number: :
1572.1294 : ON PETITION

This is a decision on the "Petition to Director Under 37 C.F.R. 1.181, filed February 27, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed October 29, 2007. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on January 30, 2008. A Notice of Abandonment was mailed February 21, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, 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 2622 for re-mailing of the Notice of Allowance and Issue Fee due and Notice of Allowabiltiy, and for re-setting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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In re Application of :
George Chin-Sheng Chou, et al. :
Application No. 10/833,097 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. BHT/3092-431 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before December 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 24, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of Honjo et al. :
Application No. 10/833,108 : Decision on Petition
Filing Date: April 28, 2004 :
Attorney Docket No. Q81364 :

This is a decision on the petition under 37 CFR 1.181, filed May 23, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Missing Parts was mailed June 24, 2004. The Notice required the submission of an executed oath/declaration and $130.

A Notice of Abandonment was mailed April 19, 2006, based on Office's failure to receive an executed oath/declaration and $130.

Petitioner asserts a proper reply was timely filed in response to the Notice to File Missing Parts. Petitioner has supplied a date-stamped postcard receipt indicating the Office received the following items on September 24, 2004:

(1) Response to Notice to File Missing Parts with $130,
(2) Copy of executed declaration,
(3) Notice to File Missing Parts,
(4) Recordation of Assignment form with $40,
(5) Original Assignment Document, and
(6) Petition for Extension of Time and $110.

Office records indicate receipt of the fees listed above. Office records indicate the assignment was received and recorded by Assignment Branch.

Items (1), (2), (3), and (4) were not matched with the application file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded items (1), (2), (3), and (4) were timely filed in the Patent and Trademark Office but not matched with the application file.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office improperly charged $170 to petitioner's deposit account on May 26, 2006. The $170 has been credited back to the deposit account.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to continue preparing the application for examination.

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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KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON, DC 20005

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In re Application of :
Victor V. Verbinski, et al. :
Application No. 10/833,131 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. SAIC0055-C-CIP1-C :

This is a decision in response to the petition, filed August 22, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed December 29, 2004. A Notice of Abandonment was mailed on August 10, 2005. In response, on August 22, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2878 for consideration of the amendment filed August 22, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Cherng et al.	:	
Application No. 10/833,139	:	ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No. MR1035-1457	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 12, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1700 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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MAY 19 2008

In re Application of :
HERZENBERG, et al. :
Application No. 10/833,164 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. **12665.0020.NPUS02** : 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 17, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

mgraves

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BEVERLY W. LUBIT, PH.D.**
WOLF BLOCK SCHOOR & SOLIS-COHEN, LLP
250 PARK AVENUE
NEW YORK, NY 10177-0030

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of :
Gerald BOURQUI, et al. :
Application No. 10/833,184 : DECISION GRANTING PETITION
Filed: April 27, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **03161.001278.1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 8, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Kirkpatrick & Lockhart, LLP
599 Lexington Avenue
31st Floor
New York, NY 10022-6030

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OFFICE OF PETITIONS

In re Application of :
Warren S. Slutter et al. :
Application No. 10/833,201 : DECISION ON PETITION
Filed: April 27, 2004 : TO WITHDRAW
Attorney Docket No. 8109.005.US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Anthony H. Handal, Kelly D. Talcott and Roger Pitt have been revoked by the applicant of the patent application on June 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Brown, Rudnick, Berlack & Israels, LLP**
Box IP, 18th Floor
One Financial Center
Boston, MA 02111

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Paper No.

JACK LO
617 VIEWRIDGE DRIVE
PACIFICA CA 94044

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OFFICE OF PETITIONS

In re Application of	:	
Marks et al.	:	DECISION ON
Application No.10/833,208	:	PETITION
Filed: April 26, 2004	:	
Title: STOPPER HOLDER FOR BEVERAGE BOTTLE:	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 11, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, September 8, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on December 9, 2006. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition included the required reply[1] in the form of payment of the Issue Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required. It is noted that the Issue Fee transmittal indicates timely filing by certificate of mailing on December 8, 2006. However, the totality of the

[1] There was no distinct but concurrent requirement for new drawings or for payment of a Publication Fee.

record supports a conclusion that the Issue Fee transmittal was not so mailed.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Lynn G. Foster
602 East 300 South
Salt Lake City, Utah 84102

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OFFICE OF PETITIONS

In re Application of :
James MCCORMICK et al. :
Application No. 10/833,222 : DECISION ON PETITION
Filed: April 26, 2004 : TO WITHDRAW
Attorney Docket No. 8706.C : 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, 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 Lynn G. Foster on behalf of all attorneys 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 James P McCormick at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City, UT 84119

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2-7-07

wk

In re Application of	:	
James P. McCormick	:	
Serial Number: 10/833,222	:	DECISION
Filed: April 26, 2004	:	ON
For: Wash Fluid Containment System	:	PETITION

This is in response to the petition filed November 24, 2006, requesting that the effective filing date of the Gross Publication be found to be December 12, 2000 and that the 1.131 declarations be found to be adequate to swear back of the Gross Publication rendering Claims 28, 29, 36-41, 44, 47 and 48 patentable over the Gross Publication and simplifying the forthcoming appeal.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

Petitioner argues that to retain the effective date of the Gross non-provisional PCT national stage application, the PCT treaty requires the Non-Provisional to have been filed within 30 months of the 12/13/99 date. Petitioner contends that Gross missed the 30 month deadline and lost the Provisional filing date as the effective date filing date of the PCT National Non-Provisional.

35 U.S.C. 363 says that "an international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title."

The Gross reference had a 37 C.F.R. 1.137(b) petition granted for revival of an application for patent abandoned unintentionally on April 4, 2003. The revival of the international stage of the application prevented the loss of priority to the provisional.

On April 21, 2003, the Gross application was determined to have met the requirements of 35 U.S.C. 371 with a priority date of December 13, 1999 and an IA date of December 12, 2000.

The Petition is **DENIED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lynn G. Foster
602 East 300 South
Salt Lake City, UT 84102

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2-20-07

wk

In re Application of	:	
James P. McCormick	:	
Serial Number: 10/833,222	:	DECISION
Filed: April 26, 2004	:	ON
For: Wash Fluid Containment System	:	PETITION

This is in response to the petition filed December 6, 2006, requesting modification of a petition filed under 37 CFR 1.144 on November 20, 2006.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **DISMISSED**.

The petition under 37 CFR 1.144 filed November 20, 2006 was incomplete. A review of the file records shows that the fax transmission was not complete and entered into the file as incomplete. Applicant can resubmit the previous petition of November 20, 2006 along with evidence that the Patent Office did receive a complete transmission.

William Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Lynn G. Foster
602 East 300 South
Salt Lake City, UT 84102

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5-17-07

gm

In re application of	:	
McCormick et al.	:	DECISION
Serial No. 10/833,222	:	DISMISSING
Filed: April 26, 2004	:	PETITION
For: WASH FLUID CONTAINMENT SYSTEM	:	

This is a decision on the PETITION UNDER MPEP 1002.02(c), filed on March 16, 2007.

A non-final Office action was mailed on February 8, 2005, followed by a final rejection on July 11, 2005. An RCE was filed on December 30, 2005, a Notice of Appeal was filed on January 17, 2006, the appeal withdrawn by applicant on February 2, 2006, a second Notice of Appeal filed February 3, 2006, and eventually a non-final Office action was mailed October 16, 2006. In response to the October 16th action, an amendment was filed on January 16, 2007 followed by a Notice of Appeal and Appeal Brief on January 19, 2007. In a communication mailed March 1, 2007, the examiner held the brief non-compliant on the grounds that the claims under appeal had not been rejected.

The instant petition was timely filed on March 16, 2007 and is before the Director of Technology Center 1700 for consideration.

The petition requests that the Notification of Non-Compliant Appeal Brief mailed March 1, 2007 be vacated or reversed.

The petition is **DISMISSED** as the application is in fact abandoned for the reasons below.

DECISION

Applicant filed a Notice of Appeal on January 17, 2006, and voluntarily withdrew the appeal on February 2, 2006. Withdrawal of appeal is governed by MPEP 1215.01, which reads in part:

> In instances where no allowable claims appear in an application, the withdrawal of an appeal is in fact an express abandonment that does not comply with 37 CFR 1.138 except where a continuing application is being filed on the same date.
>
> Prior to a decision by the Board, if an applicant wishes to withdraw an application from appeal and to reopen prosecution of the application, applicant can file a request for continued examination (RCE) under 37 CFR 1.114, accompanied by a submission (i.e.,

a reply responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action) and the RCE fee set forth under 37 CFR 1.17(e).

Once appellant has filed a notice of appeal, appellant also may request that prosecution be reopened for the following situations:
(A) In response to a new ground of rejection made in an examiner 's answer, appellant may file a reply in compliance with 37 CFR 1.111 that addresses the new ground of rejection within two months from the mailing of the examiner 's answer (see MPEP § 1207.03).
(B) In response to a supplemental examiner's answer that is written in response to a remand by the Board for further consideration of a rejection under 37 CFR 41.50(a), appellant may file a reply in compliance with 37 CFR 1.111 that addresses the rejection in the supplemental answer within two months from the mailing of the supplemental answer (see MPEP § 1207.05).

Upon the withdrawal of an appeal, an application having no allowed claims will be abandoned.

On February 2, 2006, there were no claims allowed, all claims being then rejected. Further, applicant did not file an RCE along with the withdrawal, nor do the other procedures for reopening prosecution mentioned above apply here. Accordingly, applicant's withdrawal of the appeal on February 2, 2006 acted to abandon the application.

Accordingly, the petition of March 16, 2007 is **DISMISSED.**

This application is being forwarded to the examiner for processing of the abandonment in accordance with the instant decision.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City UT 84119

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/833,222	04/26/2004	James P. McCormick	8706.C	3621

7590 12/11/2007

James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City, UT 84119

EXAMINER	
PERRIN, JOSEPH L	

ART UNIT	PAPER NUMBER
1746	

MAIL DATE	DELIVERY MODE
12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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12-11-07

wk

In re application of : DECISION
McCormick et al. : DISMISSING
Serial No. 10/833,222 : PETITION
Filed: April 26, 2004 :
For: WASH FLUID CONTAINMENT SYSTEM :

This is a decision on the PETITION TO RECONSIDER DECISION OF TECHNOLOGY CENTER DIRECTOR AND IF DENIED, PETITION TO REVIVE filed June 15, 2007.

A non-final Office action was mailed on February 8, 2005, followed by a final rejection on July 11, 2005. An RCE was filed on December 30, 2005, a Notice of Appeal was filed on January 17, 2006, the appeal withdrawn by applicant on February 2, 2006, a second Notice of Appeal filed February 3, 2006, and eventually a non-final Office action was mailed October 16, 2006. In response to the October 16th action, an amendment was filed on January 16, 2007 followed by a Notice of Appeal and Appeal Brief on January 19, 2007. In a communication mailed March 1, 2007, the examiner held the brief non-compliant on the grounds that the claims under appeal had not been rejected.

A petition was filed on March 16, 2007 requesting that the Notification of Non-Compliant Appeal Brief mailed March 1, 2007 be vacated or reversed.

The petition was dismissed as the application was in fact abandoned.

DECISION

Applicant asserts there was no appeal possible because in 2006 there was no appeal in place giving effect to the RCE. The Notice of Abandonment should be negated as being in error and that the application should be reinstated and the Examiner instructed to file his answer to the second appeal.

Applicant filed a Notice of Appeal on January 17, 2006, and voluntarily withdrew the appeal on February 2, 2006. Withdrawal of appeal is governed by MPEP 1215.01, which reads in part:

> In instances where no allowable claims appear in an application, the withdrawal of an appeal is in fact an express abandonment that does not comply with 37 CFR 1.138 except where a continuing application is being filed on the same date.

Prior to a decision by the Board, if an applicant wishes to withdraw an application from appeal and to reopen prosecution of the application, applicant can file a request for continued examination (RCE) under 37 CFR 1.114, accompanied by a submission (i.e., a reply responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action) and the RCE fee set forth under 37 CFR 1.17(e).

Once appellant has filed a notice of appeal, appellant also may request that prosecution be reopened for the following situations:
(A) In response to a new ground of rejection made in an examiner 's answer, appellant may file a reply in compliance with 37 CFR 1.111 that addresses the new ground of rejection within two months from the mailing of the examiner 's answer (see MPEP § 1207.03).
(B) In response to a supplemental examiner's answer that is written in response to a remand by the Board for further consideration of a rejection under 37 CFR 41.50(a), appellant may file a reply in compliance with 37 CFR 1.111 that addresses the rejection in the supplemental answer within two months from the mailing of the supplemental answer (see MPEP § 1207.05).

Upon the withdrawal of an appeal, an application having no allowed claims will be abandoned.

On February 2, 2006, there were no claims allowed, all claims being then rejected. Further, applicant did not file an RCE along with the withdrawal, nor do the other procedures for reopening prosecution mentioned above apply here. Accordingly, applicant's withdrawal of the appeal on February 2, 2006 acted to abandon the application.

Accordingly, the petition for reconsideration of June 16, 2007 is **DISMISSED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City UT 84119

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Harshaw Research Incorporated
PO Box 418
Ottawa KS 66067

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OFFICE OF PETITIONS

In re Application of	:	
David W. Kimple	:	DECISION ON PETITION
Application No. 10/833,230	:	
Filed: July 30, 2004	:	
Attorney Docket No. 58471	:	

This is a decision on the petition under 37 CFR 1.182, filed July 30, 2004, requesting that the above-identified application be accorded the later filing date of July 30, 2004, the date omitted Figures 6a-6c were filed with the United States Patent and Trademark Office (Office).

On April 27, 2004, applicant deposited the above-identified application. However, on July 6, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date of April 27, 2004, and advising applicant that Figures 6a-6c appeared to have been omitted from the application.

In the present application, applicant requests that the above-identified application be accorded the later filing date of July 30, 2004, the date omitted Figures 6a-6c were filed with the Office. Applicant submitted one sheet of drawings, containing Figures 6a-6c, and a supplemental oath/declaration with the present petition.

The petition is **granted**.

The Office of Initial Patent Examination is directed **to correct the filing date to July 30, 2004**, using Figures 6a, 6b, and 6c submitted on July 30, 2004, and Figures 1, 2, 3a, 3b, 4a, 4b, 5a, and 5b filed on April 27, 2004.

The record should indicate that 6 sheets of drawings were filed on July 30, 2004. Additionally, a corrected filing receipt should be mailed to applicant indicating the corrected filing date of July 30, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 2 2 2004

DCM

In re Application of Jimmie D. Miller Serial Number: 10/833,242 Filed: April 27, 2004 For: METHOD AND APPARATUS FOR STERILIZING MAIL AND TEXTILE ARTICLES	: : : : : :	PETITION UNDER M.P.E.P.708.02 XI

This is in response to the petition filed April 27, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 XI of the MPEP and 37 CFR 1.102(d). The petition fee set forth under 37 CFR 1.17(h) has been paid.

The request for Special Status considered under Section 708.02 XI is granted because criteria under 37 CFR 1.102(d) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

HARSHAW RESEARCH INCORPORATED
P O BOX 418
OTTAWA KS 66067

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DAVID M QUINLAN, PC
32 NASSAU STREET
SUITE 300
PRINCETON, NJ 08542

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OFFICE OF PETITIONS

In re Application of :
Jerry R. Schloemer :
Application No. 10/833,279 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No.: 8000.1003 :

This is a decision on the petition, filed July13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2688 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DAVID M QUINLAN, PC
32 NASSAU STREET
SUITE 300
PRINCETON NJ 08542

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Jerry R. Schloemer : DECISION ON PETITION
Application No. 10/833279 :
Filed: 04/27/2004 :
Atty Docket No. 8000.1003 :

This is a decision on the petition filed on 18 April, 2007, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. This is also a decision on the petition filed on 23 May, 2007, requesting expedited treatment under 37 C.F.R. § 1.182 of the previously filed petition under 37 CFR 1.182. The petition fee has been received.

The petitions are granted.

Petitioner asserts that the terminal disclaimers filed 19 August, 2005, are no longer required. As the examiner has concurred in the Interview Summary mailed on 22 and 29 March, 2007, the requested relief can be favorably considered.

The fee for expedited consideration of the petition will be charged to counsel's deposit account.

This application is being referred to Technology Center Art Unit 2617 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/23/08 Paper No.: _____

TO SPE OF : ART UNIT 1626 Mckane, Joseph (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/833291 Patent No.: 7306924

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: _____

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

Pet. Dec.

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FEB 7 2005

In re Application of ALWARD et al. Serial Number: 10/833,298 Filed: April 28, 2004 For: NONWOVEN COMPOSITES AND RELATED PRODUCTS AND PROCESSES	: : : : : : :	PETITION UNDER M.P.E.P.708.02 V

This is in response to the petition filed August 18, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 V is granted because criteria under 37 CFR 1.102(c) have been met.

The petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington, D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK NY 10036-2714

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OFFICE OF PETITIONS

In re Patent No. 7,046,327 :
Issued: 05/16/2006 :
Application No. 10/833318 : ON PETITION
Filed: 04/28/2004 :
Attorney Docket No. N0029.1652 :

This is a decision on the petition filed on 6 July, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

A review of Office financial records indicates that petitioner was charged the $100.00 certificate of correction fee twice, but has not been charged for the processing fee of $130.00. The duplicate certificate of correction fee will be applied to the processing fee, and the balance due of $30.00 will be charged to counsel's deposit account.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LINIAK, BERENATO & WHITE
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Saied Hussaini, et al. :
Application No. 10/833,338 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 8312.228 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571) 272-3213.

Denise Pothier
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
WWW.USPTO.GOV

Paper No. None

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Mitsuo Kawasaki et al. :
Application No. 10/833,359 :
Filed: July 16, 2004 : DECISION ON PETITION
Attorney Docket No. 9281-4809 :
Title: SOFT MAGNETIC FILM HAVING :
HIGH SATURATION MAGNETIC FLUX :
DENSITY, THIN-FILM MAGNETIC HEAD :
USING THE SAME, AND :
MANUFACTURING METHOD OF THE SAME :

This is a decision on the petition filed July 16, 2004.

On April 28, 2004, the above-identified application was deposited. On July 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 12 and 13 appeared to have been omitted. The Notice set a two-month period for response.

On July 16, 2004, Petitioner correctly submitted a petition under 37 C.F.R. §1.182, along with Figures 12 and 13, the petition fee, and a newly executed declaration. Based on this petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawings as the filing date.

The petition is **GRANTED.**

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of**

July 16, 2004, the date of receipt of the formerly omitted items, Figures 12 and 13, using the original application papers filed April 28, 2004, and the figures submitted with the instant petition on July 16, 2004. **OIPE will then mail a corrected filing receipt.**

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/833,359	07/16/2004	1742	770	9281-4809	8	20	2

CONFIRMATION NO. 4745

CORRECTED FILING RECEIPT

OC000000014255096

00757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 11/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mitsuo Kawasaki, Niigata-ken, JAPAN;
Yoshihiro Kanada, Niigata-ken, JAPAN;

Power of Attorney:

F. DAVID AUBUCHON–20493
Guy W. Shoup–26805
Gustavo Siller Jr.–32305
Jasper Dockrey–33868
John C. Freeman–34483
William Prendergast–34699
Michael E. Milz–34880
Paul Rauch–38591
Tadashi Horie–40437
Richard Clark–40560

Domestic Priority data as claimed by applicant

This application is a DIV of 10/041,354 01/08/2002 PAT 6,765,757

Foreign Applications

JAPAN 2001-005911 01/15/2001

If Required, Foreign Filing License Granted: 07/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/833,359

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Soft magnetic film having high saturation magnetic flux density, thin-film magnetic head using the same, and manufacturing method of the same

Preliminary Class

205

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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DNW 10-04

JURGEN VOLLRATH
588 SUTTER STREET # 531
SAN FRANCISCO CA 94102

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Cameron et al.	: DECISION GRANTING
Application No. 10/833,380	: PETITION
Filed: 28 April, 2004	:
Attorney Docket No. 75269/05965 CON	:

This is a decision on the petition filed on 16 September, 2004, which is treated as a petition requesting that the above-identified application, without drawings, be accorded a filing date of 28 April, 2004.

The application was filed on 28 April, 2004, without drawings.[1] Accordingly, on 2 August, 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. A two (2) month period for reply was set. The Notice also stated that the oath or declaration was missing.

In response, on 16 September, 2004, petitioners filed the present petition, accompanied by, *inter alia*, eight (8) sheets of drawings. Petitioners assert that the drawings "were included in the original filing of this application." Petitioners further state that the drawings were present in a prior-filed application incorporated by reference in the present application.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no sheets of drawings were filed on 28 April, 2004. No

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

sheets of drawings were filed on 28 April, 2004, since no sheets of drawings are present among the application papers received on that date. 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.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[2] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 28 April, 2004, showing that the eight (8) drawing sheets were received in the USPTO on 28 April, 2004, the application cannot be accorded a filing date of 28 April, 2004, with eight (8) sheets of drawings as a part of the original disclosure.

Nevertheless, 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).[3] A review of the record reveals that Claims 35-46 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee will be credited to counsel's deposit account, No. 14-0448 as authorized on the fee transmittal sheet submitted with the present petition.

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[2] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[3] MPEP 601.01(f).

The "Notice of Incomplete Nonprovisional Application" mailed on 2 August, 2004, was sent in error and is hereby vacated.

The application will be processed and examined using only the application papers filed on 28 April, 2004. The eight (8) sheets of drawings filed with the present petition will not be used for processing or examination, but will be retained in the application file.

Petitioners should file the eight (8) sheets of drawings as a preliminary amendment. If the eight (8) sheets of drawings are filed as a preliminary amendment, they will be reviewed by the examiner for new matter. Obviously, in view of the incorporation by reference of the prior application, the eight (8) sheets of drawings are not new matter if they were a part of the disclosure of the prior application.

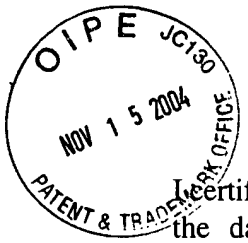
The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 April, 2004, using only the application papers present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

P/ IFW

PATENT



CERTIFICATE OF MAILING

I certify that on 11/12, 2004, which is the date I am signing this certificate, this correspondence and all attachments mentioned are being deposited in the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450

Jurgen Vollrath

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	
Inventor: John F. Cameron et al.	)	Art Unit:
Serial No.: 10/833,380	)	
Filed: 4/28/2004	)	
Title: SYSTEM AND METHOD FOR	)	
USING CORRECTED SIGNALS FROM A	)	Examiner:
GLOBAL POSITIONING SYSTEM TO	)	
PERFORM PRECISION SURVEY	)	
	)	
	)	
	)	

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Decision Granting Petition – Request for Clarification

1. Applicant thanks the Office of Petitions for granting the petition to accord a filing date of 28 April, 2004.
2. The Decision, however, stated that Applicant has the burden of proving receipt of the drawings at time of filing and that a date stamped postcard itemizing the items (in this case) constituted prima facie proof of receipt of the items.
3. The Decision further stated that due to the absence of the postcard the drawings would not be afforded the filing date of 28 April, 2004 but that the drawings could nevertheless be entered into the file by filing a preliminary amendment.
4. It is respectfully pointed out that a date stamped postcard itemizing the drawings was included in the petition – for convenience the postcard is enclosed herewith.
5. The Office of Petitions is therefore asked to clarify whether, in view of the postcard, the drawings will also be accorded the 28 April, 2004 filing date and whether the resubmission of the drawings by preliminary amendment is still required.

Respectfully Submitted,

Dated: 11/11/, 2004

Jurgen K. Vollrath

VOLLRATH & ASSOCIATES
588 Sutter Street # 531
San Francisco, CA
94102

Tel: 650-430 3429
408-667 1289

O I P E JC150
NOV 15 2004
PATENT & TRADEMARK OFFICE

PATENT 75269/05965 CON

In re Application of: John F. Cameron
For SYSTEM AND METHOD FOR USING CORRECTED SIGNALS FROM A GLOBAL POSITIONING SYSTEM TO PERFORM PRECISION SURVEY

Client: National Semiconductor Corporation

1. Check for $574 for Filing and Recordation fees
2. Transmittal Form
3. Fee Transmittal Form
4. Specification (26 pages)
5. Drawings 8 sheets)
6. Declaration (3 sheets)
7. Recordation Form
8. Assignment forms (2 sheets)
9. Power of Attorney
10. Request for Certification under 35 USC 122(b)(2)(B)(i)
11. Preliminary Amendment

16834 U.S. PTO
10/833380
042804

The U.S. Patent and Trademark Office Mail Room stamp hereon acknowledges receipt of the items indicated above on the date shown.

Mailed April 28, 2004 by Jurgen Vollrath

UNITED STATES 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-07

RICHARD ESTY PETERSON
PATENT ATTORNEY
1905-D PALMETTO AVENUE
PACIFICA CA 94044

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Marius Paul	:	DECISION ON PETITION TO
Application No. 10/833,382	:	WITHDRAW HOLDING OF
Filed: 28 April, 2004	:	ABANDONMENT
Attorney Docket No. 5068.4	:	

This is a decision on reference in reference to the petition filed under 37 CFR 1.181, on 12 February, 2007, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election mailed on 24 May, 2005, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on 30 January, 2007.

Petitioner asserts that a reply to the Office action was in fact previously timely filed on 30 June, 2005. Upon review, an election of species without traverse and one (1) month extension of time filed on 5 July, 2005 (certificate of mailing date 30 June, 2005), has been located in the Office's Image File Wrapper system. As such, the papers filed on 5 July, 2005, constituted a complete and timely response to the Office action mailed on 24 May, 2005.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application will be referred to Technology Center Art Unit 3746 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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JJGJr: 03-06

Paper No: __

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P O BOX 3445
NASHUA NH 03061-3445

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Holmes, et al.	:	
Application No. 10/833,406	:	NOTICE
Filed: 28 April, 2004	:	
Attorney Docket No. 81762/361	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 16 January, 2006

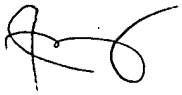
On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. §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 C.F.R. §1.28 hereby is **ACCEPTED**

This file is released to Publications Branch to be processed into a patent.

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.



John J. Gillon, Jr.
Senior 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
10/833,407	04/27/2004	3652	770	4641	3	17	1

CONFIRMATION NO. 4683

021553
FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

CORRECTED FILING RECEIPT

OC000000013507859

Date Mailed: 08/11/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Matthias Graf, Bretten, GERMANY;

Assignment For Published Patent Application

Dieffenbacher GmbH & Co. KG, Eppingen, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 103 21 116.0 05/09/2003

If Required, Foreign Filing License Granted: 07/01/2004

Projected Publication Date: 11/18/2004

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus for longitudinally orienting elongated wood strands

Preliminary Class

414

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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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
Ying, et al.
Application No.: 10/833,412
Filed: April 27, 2004
Attorney Docket No.: FSP0028.CIP1
For: IDENTIFICATION OF SIM BASED DEVICE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 27, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 27, 2005 without a completely executed declaration, but with a Rule 47 petition

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Rebecca L. Twigg cannot be located. The petition contains a declaration by Ruby Tarr, AT&T Wireless Services, Inc. Senior Patent Paralegal. Ms. Tarr states that a declaration, assignment, and power of attorney were mailed to Ms. Tarr at two possible addresses, but both packages were returned to sender.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached. It is unclear that the papers were mailed to the address listed for Ms. Twigg in the oath/declaration for patent application.

Petitioners should engage in further efforts to locate Ms. Twigg. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration 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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

If petitioners discover a current address for Mr. Twigg, a complete copy of the application, including specification, claims, and drawings and a declaration in proper form, should be mailed to Ms. Twigg's current address with a request that she sign the declaration.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted with the present petition identifies each inventor individually on a separate sheet of paper without any reference to the other joint inventors. The declaration should set forth all of the joint inventors on the same page or on consecutively numbered pages – i.e. 1/4, 2/4, 3/4, 4/4 -- to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63. For this reason, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a). All available inventors must execute a new declaration in proper format.

Pursuant to petitioners' authorization, deposit account no. 50-1691 will be charged the required $130.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FSP LLC
112 W 37TH ST.
VANCOUVER WA 98660

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of
Ying, et al.
Application No.: 10/833,412
Filed: April 27, 2004
Attorney Docket No.: FSP0028.CIP1
For: IDENTIFICATION OF SIM BASED DEVICE

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 26, 2004 (certificate of mailing date November 23, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventor, Rebecca L. Twigg, cannot be located. Specifically, the statement of facts of Ruby Tarr, Senior Patent Paralegal, establishes that despite attempts to locate the inventor through the mail and telephone information searches, that Ms. Twigg cannot be located. Petitioners have diligently searched for Ms. Twigg. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 2681 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REBECCA L. TWIGG
12501 NE 28TH STREET
BELLEVUE, WA 98005

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of
Ying, et al.
Application No.: 10/833,412
Filed: April 27, 2004
Attorney Docket No.: FSP0028.CIP1
For: IDENTIFICATION OF SIM BASED DEVICE

LETTER

Dear Ms. Twigg:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FSP LLC
112 W 37TH ST.
VANCOUVER WA 98660

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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MARSHALL GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 SOUTH WACKER DR
CHICAGO IL 60606-6357

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OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Alan R. Bell, Fenella Cochrane, :
Geoffrey N. O'Connor, James S. Rowe:
Application No. 10/833,429 : DECISION ACCORDING STATUS
Filed: April 28, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 27490/622543

This is in response to the petition under 37 C.F.R. §1.47(a), filed September 7, 2004, and supplemented on September 14, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on April 28, 2004, without an executed oath or declaration. Accordingly, on July 2, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicants filed the instant petition, made timely by including a Certificate of Mailing dated September 2, 2004. Accompanying the petition is a declaration signed by all of the inventors except for James S. Rowe.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicants have included a copy of a written refusal from Rowe, in which he indicates his intent not to be named as an inventor or to sign any documents associated with the instant patent application.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 1614 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES R ROWE
UNIT 10
2 CATHERINE ST
KOGARAH
NEW SOUTH WALES 2217
AUSTRALIA

COPY MAILED

OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Alan r. Bell, Fenella Cochrane, :
Geoffrey N. O'Connor, James R. Rowe :
Application No. 10/833,429 : LETTER
Filed: April 28, 2004 :
Title: Formulations for Anaesthetic :
Use

Dear Mr. Rowe:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

James P. Zeller (312-474-6300)
Marshall, Gerstein & Borun LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357

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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PEARNE & GORDON
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Sam Cini et al :
Application No. 10/833,434 : DECISION ON PETITION
Filed: April 28, 2004 : TO WITHDRAW
Attorney Docket No. 36342 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2005.

The petition is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the stated reason for the request is "[n]o longer represent the applicant." This statement does not satisfy one of the valid reasons for withdrawal under 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.

This application is being referred to Technology Center AU 2875.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr: 01-06

Paper No: ___

RUSSELL W. PYLE
SUITE 850
PYLE & PIONTEK
221 N. LASALLE STREET
CHICAGO IL 60601

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JAN 2 7 2006

OFFICE OF PETITIONS

In re Application of:
Jablonski, et al.
Application No. 10/833,436 : ON PETITION
Filed: 28 April, 2004 :
Attorney Docket No.: IMI 40003 :

This is a decision on the petition (with fees) filed on 24 October, 2005, expressly under 37 C.F.R. to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §3.81.

NOTES: **Petitioner is cautioned always to identify and evidence the REEL/FRAME data in requests such as this.**

The Rules of Practice require the assent of assignees with 100 percent of interest, and Petitioner's own record indicates three different statements of the inventive entities as set forth in, respectively, the original oath/declaration, the assignments of record and Petitioner's most recent paper under 37 C.F.R. §1.48 (a matter generally for determination by the Examiner and not the Office of Petitions).

The petition under 37 C.F.R. §3.81 is **DISMISSED**.

Petitioner has submitted a petition seeking issuance of a patent to the assignee of record, however as indicated above, the Petitioner's own record sets forth three different statements as to the inventive entity, and thus the potential assignors–with a listing of three signing inventors on the original oath/declaration; four assignments from four alleged co-inventor-assignors recorded; and Petitioner's own restatement of the inventive entity, presently before the Examiner on petition under 37 C.F.R. §1.48.

Moreover, the Issue Fee payment form (Form PTOL 85) sets forth the same assignee name as that sought on petition, to wit: IMI Cornelius Inc, which information would be the subject of data capture by the Office from the Form PTOL 85.

Thus, either the petition must be dismissed for failing to satisfy the regulatory requirements, or, in the alternative, because the matter is moot.

Therefore, the petition is **dismissed**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 30, 2006

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/833436 Patent No.: 7,059,141 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Cheryl J. [illegible]
SPE

3744
Art Unit

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of Cho et al. :
Application No. 10/833,452 : Decision on Petition
Filing Date: April 27, 2004 :
Attorney Docket No. 002013.P165 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 18, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on July 19, 2005. A Notice of Abandonment was mailed on November 22, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

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." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, July 19, 2005, until the date the petition was filed, December 5, 2005, was not unintentional, petitioner must notify the Office.

Technology Center Art Unit 2891 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: LESLEY NING
20511 LAKE FOREST DR.
E-118G
LAKE FOREST, CA 92630

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JAN 04 2010

In re Application of	:	
Hai Jiang	:	
Application No. 10/833,460	:	DECISION GRANTING
Filed: April 27, 2004	:	PETITION
Attorney Docket No. R1895	:	

This is a decision on the petition filed October 28, 2009, requesting that the above-identified application be accorded a filing date of April 27, 2004, rather than the presently accorded date of April 28, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 27, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express mail label No. EL226617674US, showing a handwritten "date-in" of April 27, 2004, as well as a stamped USPS date of April 27, 2004. The same Express Mail number appears on the original transmittal papers found in the application file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on April 27, 2004, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of April 27, 2004, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **April 27, 2004**, and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000.

Chris Bottorff
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 28 2004

In re Application of	:	
Joseph V. Shagday et al.	:	
Serial No. 10/833,471	:	DECISION ON PETITION
Filed: April 27, 2004	:	TO MAKE SPECIAL
For: PISTACHIO NUT OPENER	:	

Applicant's petition, filed April 27, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Risto A. Rinne, Jr.
Complete Patenting Services
2173 E. Francisco Blvd., Suite E
San Rafael, CA 94901

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of :
Nancy Clungeon et al. :
Application No. 10/833,473 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. GP.2358 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 August 8, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 9, 2006. A Notice of Abandonment was mailed on April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,500.00, and (3) an adequate 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1731 for appropriate action by the Examiner in the normal course of business on the reply received September 19, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul and Paul, LLP
2000 Market Street
29th Floor
Philadelphia, PA 19103-2891

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NOV 3 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,919,831 :
Issued: July 19, 2005 :
Application No. 10/833,500 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket Number: P05821 :

This is a decision on the petition, filed November 18, 2005, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the assignee, National Semiconductor Corporation, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for certificate of correction (and fee) as required by 3.81(b) was filed September 26, 2005 and dismissed in a decision mailed October 12, 2005 since the request was not accompanied by a petition under 37 CFR 3.81.

---

[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that National Semiconductor Corporation is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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JUL 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Walter M. Duncan, et al. :
Application No. 10/833,527 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. TI-29201.1 :

This is a decision in response to the petition, filed April 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 28, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 29, 2007. On April 7, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2822 for appropriate action by the Examiner in the normal course of business on the response filed April 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 092104

Duane Morris, LLP
100 College Rd., West
Suite 100
Princeton, NJ 08540-6604

SEP 29 2004

In re Application of:
Germanton
Serial No.: 10/833,539
Filed: April 28, 2004
Attorney Docket No.: **MSI-628**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 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 Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Plevy & Howard, 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: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BARNES BARNES & THORNBURG LLP
600 1ST SOURCE BANK CENTER
100 NORTH MICHIGAN
SOUTH BEND, IN 46601-1632

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AUG 1 1 2008

In re Application of
SMITH, Martin P.
Application No. 10/833,550
Filed: April 28, 2004
Attorney Docket No. **36632-95934**

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 July 29, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Barnes Barnes & Thornburg LLP has been revoked by the assignee of the patent application on July 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SNELL & WILMER L.L.P. (Main)**
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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OCT 14 2004

In re Application of	:	
Floyd L. Gustine	:	
Serial No. 10/833,559	:	DECISION ON PETITION
Filed: April 29, 2004	:	TO MAKE SPECIAL
For: RESILIENT ADJUSTABLE	:	
HEIGHT GOLF TEE	:	

Applicant's petition, filed April 29, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Clifford A. Poff
9800B McKnight Road, Suite 115
Pittsburgh, PA 15237

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DIW Apr-07

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Joshi et al. :
Application No. 10/833,568 : DECISION ON PETITION
Filed: 28 April, 2004 :
Atty Docket No. TI-37081 (1962-10500) :

This is a decision on the petition filed on 29 January, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 September, 2006, for failure to timely file a response to the non-final Office action mailed on 6 June, 2006, 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 12 December, 2006.

An amendment has been filed with the present petition.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 2188 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

cc: NICK P. PATEL
CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON TX 77253-3267

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

NOV - 6 2002

MARK D. BOWEN, ESQ.
STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON PA
200 EAST BROWARD BOULEVARD SUITE 1900
FT LAUDERDALE FL 33301

COPY

In re Application of
Barrington A. Morris et al
Serial No.: 09/978,947
Filed: October 126, 2001
Attorney Docket No.: 4512.016

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed October 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on actual infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 15, 2006

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/833,581 Patent No.: 7,049,082B2

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: _____

Christina Chan — SPE

1644 — Art Unit

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SUITE 1607
4050, ROSEMONT BLVD.
MONTREAL QC H1X1M-4 CA CANADA

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NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Serge Bayard :
Application No. 10/833,591 : DECISION GRANTING PETITION
Filed: April 28, 2004 :
Attorney Docket No. None :

This is a decision in response to the petition filed August 24, 2004, requesting, in effect, withdrawal of the notice of omitted items.

The application was filed on April 28, 2004. However, on July 2, 2004, the Initial Patent Examination Division mailed a Notice to File Corrected Application Papers requiring replacement drawings and stating that Figures 1A & 1B described in the specification appeared to have been omitted.

In response, the present petition was filed along with replacement drawings of figures 1 through 5. Petitioner explains that Figures 1A and 1B do not exist. The petition is accompanied by an amendment to correct the reference to the drawings in specification.

It is now clear from the petition that no drawing was actually missing on April 28, 2004. However, the notice regarding the omitted item(s) mailed July 2, 2004, was correct in stating that Figure(s) 1A & 1B described in the specification appeared to have been omitted. Therefore, the "notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of April 28, 2004, using the replacement drawings provided August 24, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,279,182 :
Lipp et al. : DECISION ON REQUEST FOR
Issue Date: October 9, 2007 : RECONSIDERATION OF
Application No. 10/833,613 : PATENT TERM ADJUSTMENT
Filed: April 28, 2004 : AND NOTICE OF INTENT
Attorney Docket No. 2685.1010 US2 : TO ISSUE CERTIFICATE OF CORRECTION
Title: FORMULATION FOR SPRAY-DRYING LARGE POROUS PARTICLES :

This is a decision on the petition filed on October 2, 2007, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred fifteen (415) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Patentees request review of the 14 days of adjustment for the mailing of the Notice of Allowance on June 27, 2007.

Patentees' request for reconsideration of the 14 day adjustment is DISMISSED AS UNTIMELY.

Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges (not candor) to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are

untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 14-day adjustment is untimely raised.

The period of adjustment to which patent is entitled under 37 CFR 1.702(a) is 206 (192 + 14) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 164 days.

The number of days by which the periods of adjustment under 37 CFR 1.702(a) and (b) overlap is 14 days (from June 14, 2007 to June 27, 2007).

The period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicant delay (23 days).

The adjustment is further properly reduced 266 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed October 5, 2006. The reduction commenced October 5, 2006, the date that the Notice of Appeal was filed, and ended June 27, 2007, the date that the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 67 days (206 days under 37 CFR 1.702(a) + 164 days under 37 CFR 1.702(b) - 14 overlapping days - 266 days pursuant to 37 CFR 1.703(b)(4) - 23 days of applicant delay).

The application is being forwarded to the Certificate 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 67 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 : 7,279,182 B2

DATED : **October 9, 2007** **DRAFT**

INVENTOR(S) : Lipp 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 183 days

Delete the phrase "by 183 days" and insert – by 67 days--

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 05/06/2010

Applicant	: Parris S. Wellman	: DECISION ON REQUEST FOR
Patent Number	: 7611484	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/833,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1374** 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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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: David A. Kidwell	: DECISION ON REQUEST FOR
Patent Number	: 7618523	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/833,636	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1578** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 30 2006

MARK D. BOWEN
STEARNS WEAVER MILLER, ET AL.
SUITE 1900
200 EAST BROWARD BOULEVARD
FORT LAUDERDALE FL 33301

In re Application of	:
Barrington A. Morris et al	:
Serial No.: 10/833,653	: PETITION TO MAKE SPECIAL
Filed: April 28, 2004	:
Attorney Docket No.: 4512.031	:

This is in response to the petition filed May 16, 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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FROM DIRECTORS OFFICE

OCT 14 2004

TECHNOLOGY CENTER 3600

Richard S. Faust
Suite 204
8384 Six Forks Road
Raleigh, NC 27615

In re application of :
Thomas H. Purcell Jr., :
Application No. 10/833,657 :
Filed: April 28, 2004 :
For: AIRCRAFT WITH FOLDABLE TAIL ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 28, 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. Thomas H. Prucell and a copy of a birth certificate indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 10/12/04

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/833,669	04/28/2004	Alain Zanco	GSQZ 2 00064	5101

27885 7590 02/08/2008

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER	
WALTERS, JOHN DANIEL	
ART UNIT	**PAPER NUMBER**
3618	

MAIL DATE	DELIVERY MODE
02/08/2008	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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FEB 0 7 2008

TECHNOLOGY CENTER 3600

January 15, 2008

Fay Sharpe LLP
1100 Superior Ave, 7th Floor
Cleveland, OH 44114

In re Application of:
A. Zanco
Application No. 10/833,669
Filed: April 28, 2004

DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to the petition filed on March 5, 2007 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office action mailed September 5, 2006 as being premature.

Applicant alleges that the Final rejection mailed September 5, 2006 was premature in accordance with the guidelines of MPEP 706.07(a) in that the rejection "addresses claims 2-7 and 11-19 for the first time on the merits". Applicant further alleges that the applicant was not "accorded the opportunity to freely amend the claims and respond to a first, complete Office Action on the merits".

A review of the record reveals that since the filing of the petition, a pre-appeal brief conference request was filed by Applicant on March 5, 2007. As a result, further consideration was given and a Notice of Allowance was mailed on May 2, 2007.

Therefore since the Examiner and Applicant agreed on allowable subject matter in the case, Applicant's arguments as to the premature finality are considered moot.

The petition is **DISMISSED as moot.**

Telephone inquiries should be directed to Chris Ellis, Supervisory Patent Examiner, at (571) 272-6914

Kathy Matecki

for Paul Dickson, Director
Patent Technology Center 3600
(571) 272-6669

CPE/snm: 01/15/08

SM

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30 NORTH LASALLE STREET, SUITE 2630
CHICAGO, IL 60602

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of :
David H. DaCosta et al :
Application No. 10/833,672 : DECISION GRANTING PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 40199-10021US :

This is a decision on the petition, filed September 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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." The full amount of the fee due at the time of payment must be submitted to avoid the abandonment of the application. Petitioner is further 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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Alan J Grant, Esq
c/o Carella, Byrne, Bain,
Gilfillan, Cecchi
Stewart & Olstein
5 Becker Farm Road
Roseland NJ 07068

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of :
Hayden et al. :
Application No. 10/833,679 : ON APPLICATION FOR
Filed: April 28, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 760050-135 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705, filed April 28, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred six (206) days, not forty-seven (47) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Ralph et al. :
Application No. 10/833,736 : DECISION GRANTING PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SPINE 3.0-436 CIP CIP CIP III CONT :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) filed September 25, 2005 and the concurrently filed amendment to the specification with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is

entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This application is being forwarded to Technology Center Art Unit 3738 for appropriate action on the amendment filed February 8, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
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
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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
10/833,736	04/28/2004	3738	385	F-208 CON I	20	2

CONFIRMATION NO. 5459

CORRECTED FILING RECEIPT

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000030537238

Date Mailed: 06/18/2008

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)

James D. Ralph, Seaside Park, NJ;
Stephen Tatar, Montvale, NJ;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/974,154 10/11/2001 PAT 6,887,274
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
which is a CIP of 09/968,046 10/01/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/833,736**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Intervertebral spacer device utilizing a belleville washer having radially spaced concentric grooves

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of :
Ralph et al. :
Application No. 10/833,737 : DECISION GRANTING PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. F-209 CON I :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 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 and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The amendment included in the petition is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. Only application No. 09/580,597 was referenced in the first sentence of the specification upon filing. Therefore, the incorporation by reference sentence included in the amendment is not proper.

However, the Office will accept the priority claims as shown in the Application Data Sheet (ADS) filed with the instant petition on February 8, 2008.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3738 for appropriate action on the amendment filed February 8, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/833,737	04/28/2004	3738	385	F-209 CON I	20	2

CONFIRMATION NO. 5457

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC00000002875262

Date Mailed: 03/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James D. Ralph, Seaside Park, NJ;
Stephen Tatar, Montvale, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 51640

Domestic Priority data as claimed by applicant

This application is a CON of 09/975,471 10/11/2001 PAT 6,863,688
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
which is a CIP of 09/968,046 10/01/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/833,737**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Intervertebral spacer device utilizing a spirally slotted belleville washer having radially spaced concentric grooves

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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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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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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Terence P. O'Brien
Wilson Sporting Goods Co.
8700 W. Bryn Mawr Avenue
Chicago IL 60631

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of
Douglas Guenther, Mark Fritzke, Bradley Gaff and Michael Eggiman
Application No.10/833,747
Filed: April 28, 2004
Attorney Docket No. WD0117
Title of Invention: BAT HAVING A FLEXIBLE HANDLE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.146(b), filed September 2, 2004. This application is properly being treated under 37 CFR 1.47(a).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. Sufficient evidence has been presented to establish that non-signing inventor through his legal representative refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (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
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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of Bolduc et al. :
Application No. 10/833,753 : Decision on Petition
Filing Date: April 28, 2004 :
Attorney Docket No. HRT0155C2 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 23, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on November 24, 2005. A Notice of Abandonment was mailed on March 2, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3721 will be informed of the instant decision and the amendment filed with the petition will be considered by the examiner in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD CA 93036

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Matthew BROWN et al :
Application No. 10/833,760 : DECISION ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. MCS-013-04 (MS 308394.01) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 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 October 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 30, 2007. Accordingly, the date of abandonment of this application is October 31, 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 $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051, or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

Christopher Bottorff

for David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS, MN 55432-9924

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FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of :
John Matthew Swoyer et al :
Application No. 10/833,761 : DECISION GRANTING PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P-10110.02 :

This is a decision on the petition, filed February 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 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 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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John A. Thomas
2200 One Galleria Tower
113355 Noel Road, L.B. 48
Dallas, TX 75240-1518

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Jaime H. Gutierrez Gonzalez :
Application No. 10/833,777 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket Number: :
01206.770 :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed November 14, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 11, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 12, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Applicant has submitted the issue fee.

This application is being referred to Publishing Division for processing into a patent.

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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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Patent No. 6,998,713 :
Issue Date: February 14, 2006 :
Application No. 10/833,790 : ON PETITION
Filed: April 27, 2004 :
Patentee(s): Yasunori Narizuka, et. al. :

This is a decision on the request for a Certificate of Correction filed on December 12, 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**.

The $130 processing fee needed for treatment of the instant request, as well as, the $100 Certificate of Correction fee has been charged to petitioner's deposit account, as authorized.

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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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUN 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Alexander BUHLMEYER et al.	:	DECISION ON PETITIONS
Application No. 10/833,795	:	UNDER 37 CFR 1.183 AND
Filed: April 28, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P13014WOUS	:	

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/EP02/12030, filed October 28, 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 3634 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/18/2010

Applicant	: Gargi Nalawade	: DECISION ON REQUEST FOR
Patent Number	: 7633874	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/833,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1600** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OCT 15 2004

In re Application of :
Herschel Naghi *et al* :
Application No. 10/833,819 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 51428/JEJ/N220 :

This is a decision on the petition to make special filed on June 14, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3714 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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3M INNOVATIVE PROPERTIES COMPANY
PO BO 33427
ST. PAUL MN 55133-3427

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JUL 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Scherer et al :
Application No. 10/833,836 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 59690US002 :

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 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

In re Application of :
Richard J. Scherer et al :
Application No. 10/833,836 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 59690US002 :

This is a decision on the petition, filed December 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 September 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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24 Mine Street
Flemington NJ 08822

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OFFICE OF PETITIONS

In re Application of :
David Brock :
Application No. 10/833,853 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. DLB-103A :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed April 23, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

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 September 11, 2007, 2006. The Notice of Allowance and Fee (s) Due and the Notice of Allowability 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 December 13, 2007. A Notice of Abandonment was mailed on January 9, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (1) and (3).

As to item (1), the Office is in receipt of $700.00 towards the issue fee. However the current issue fee for small entity is $720.00. The $20.00 difference is required.

As to item (3), 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 "avoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have

adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more 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 written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

Petitioner has failed to meet (3). A copy of a master docket or other evidence has not been provided to establish non receipt of the Notice of Allowance and Notice of Allowability.

If petitioner cannot supply the evidence necessary, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35

U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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24 Mine Street
Flemington NJ 08822

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SEP 19 2008

In re Application of :
David Brock :
Application No. 10/833,853 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. DLB-103A :

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 16, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

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 September 11, 2007, 2006. The Notice of Allowance and Fee (s) Due and the Notice of Allowability 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 December 13, 2007. A Notice of Abandonment was mailed on January 9, 2008. A petition filed under 1.137(a) was dismissed on June 9, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

As to item (3), 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 "avoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is

applicable to ordinary human affairs, and requires no more 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 written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

Petitioner has failed to meet (3). A copy of a master docket or a statement that a master docket does not exist has not been provided. On renewed petition, petitioner has provided a copy of what appears to be a docket record specifically for the above-identified application. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should

so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

If petitioner cannot supply the evidence necessary, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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GlynnTech, INC.
24 Mine Street
Flemington NJ 08822

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DEC 17 2008

In re Application of :
David Brock :
Application No. 10/833,853 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. DLB-103A :

This is a decision on the petition under 37 CFR 1.137(a), filed October 20, 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 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 11, 2007. Accordingly, the date of abandonment of this application is December 12, 2008. Petitions under 37 CFR 1.137(a) were dismissed on June 9, 2008 and September 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue and publication fees; (2) the petition fee of $255; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to the Office of Data Management for issuance of patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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NEEDLE & ROSENBERG, P.C.
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999 PEACHTREE STREET
ATLANTA GA 30309-3915

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Briere and Miller	:	DECISION ACCORDING STATUS
Application No. 10/833,880	:	UNDER 37 CFR 1.47(a)
Filed: 28 April, 2004	:	
Atty Docket No. 03269.0104U2	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 2 February, 2005.

The petition is **GRANTED**.

Petitioners have shown that non-signing joint inventor Robert J. Miller has refused to join in the filing of this application. Specifically, petitioners have shown, via the statement by petitioners' counsel, Brian C. Meadows, that a copy of the application papers was sent by Federal Express to non-signing inventor Miller's attorney, Maurice Cahn, but that Mr. Cahn stated during a telephone conversation that joint inventor Miller would not sign and return the declaration naming him as a joint inventor along with Jean Briere.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. 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 referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Robert J. Miller
2060 Eagle Point Drive
Dalton GA 30720

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of
Miller et al.
Application No. 10/833,880
Filed: 28 April, 2004
For: HARD SURFACE-VENEER ENGINEERED SURFACING TILES AND METHODS

Dear Mr. Miller:

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).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Ruelle	:	
Application No. 10/833,884	:	DECISION ON PETITION
Filed: April 28, 2004	:	PURSUANT TO
Attorney Docket Number: GSKB-106US1	:	37 C.F.R. § 1.137(B)
Title: POLYPEPTIDES AND POLYNUCLEOTIDES "BASB040" FROM NEISSERIA MENINGITIDIS AND VACCINE COMPRISING SAID POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 15, 2007, 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 December 29, 2006, 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 March 30, 2007.

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 and the proper statement of unintentional delay. Petitioner has further indicated that a continuation of the present application was filed on June 28, 2007. It is noted that this filing has been assigned an application number of 11/770,421. A terminal disclaimer is not required.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application number 11/770,421.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Lassi Hyvonen :
Application No. 10/833,891 : DECISION GRANTING PETITION
Filed: April 28, 2004 :
Attorney Docket No. 944-003.228 :

This is a decision on the petition filed September 22, 2004, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the alleged omitted figures.

The petition is **granted**.

On April 28, 2004, the above-identified application was filed. However, on August 19, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of April 28, 2004, and advising applicant that Figures 1, 4e, 4f, 5a, 7, 8, 9a, and 9b, as described in the specification appeared to have been omitted. Relative to the alleged omitted figures, the notice set a non-extendable period for reply two-month period for reply.

In response, on September 22, 2004, applicant filed the present petition, a copy of the alleged omitted figures, and an Office date-stamped postcard receipt acknowledging receipt of 9 sheets of the drawings, among other items.

Upon review of the record, the alleged omitted figures were not located among the application papers. However, the evidence is convincing that the application papers deposited April 28, 2004, included Figures 1, 4e, 4f, 5a, 7, 8, 9a, and 9b, which were subsequently misplaced by the Office. Therefore, the application, including Figures 1, 4e, 4f, 5a, 7, 8, 9a, and 9b , was complete on filing and entitled to the presently accorded filing date of April 28, 2004, with Figures 1, 4e, 4f, 5a, 7, 8, 9a, and 9b as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee paid of $130.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 28, 2004, using 9 sheets of drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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David B. Ritchie
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

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OFFICE OF PETITIONS

In re Application of
Alberto Pesavento
Application No. 10/833,907
Filed: April 27, 2004
Attorney Docket Number: IMPJ-0078

: NOTICE

This is a notice regarding your request filed on August 3, 2004, that small entity status be removed for the above identified patent pursuant to 37 CFR 1.27.

The change of status to a large entity has been entered and made of record.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251 until September 24, 2004 thereafter (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Bellaouar et al. : DECISION ON PETITION
Application No. 10/833,908 :
Filed: April 28, 2004 :
Attorney Docket No. TI-37130 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 3, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 6, 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 timely filed and no extension of time obtained, the application became abandoned effective November 7, 2007. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

It is noted that applicant also filed a Notice of Appeal. If petitioner intends to seek appeal, petitioner is given two (2) months from the mailing date of this decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Technology Center AU 2618 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed March 3, 2008.

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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TECHNOLOGY CENTER 3600

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210

In re application of : **DECISION ON PETITION**
Frederick M. Rieber, et al. : **TO MAKE SPECIAL**
Application No. 10/833,913 : **(INFRINGEMENT)**
Filed: April 28, 2004 :
For: KNOCK-DOWN QUARTER PIPE FOR SKATEBOARDERS, BIKERS AND IN-LINE SKATERS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 7, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

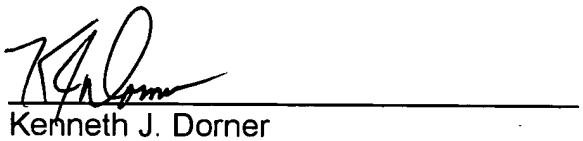
MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 7, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

Regarding element 2(C) above, an Information Disclosure Statement was filed on June 7, 2004.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/03/04

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OFFICE OF PETITIONS

In re Application
Adel Moussa et al.
Application No. 10/833,925
Filed: April 28, 2004
Attorney Docket No. **50190-US-NP**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT filed April 27, 2009 and the SUPPLEMENTAL APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT filed May 6, 2009. Applicant requests that the determination of patent term adjustment be corrected from 458 days to 930 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED-in-part**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred forty-four **(344)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 458 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 642 days for Office delay.

Applicants argue that after the filing March 19, 2008 of a supplemental response to a second non-Final Office Action mailed August 24, 2007, a Supplemental Information Disclosure Statement was filed on July 11, 2008 and that the Patent Term Adjustment should be reduced by an additional 114 days of applicants' delay, in accordance with 37 CFR 1.704.

[1] PALM records indicate that the issue fee was paid on April 27, 2009.

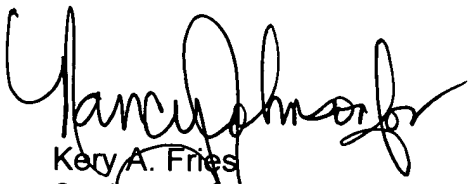
Applicant's argument is persuasive. The filing of the Supplemental Information Disclosure Statement on July 11, 2008 is considered a failure to engage under 1.704(c)(8). A period of 114 additional days should have been deducted for a total of 298 days for Applicant Delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are 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 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 Patricia Faison-Ball at (571) 272-3212.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of Revised PALM Screen

Day : Friday
Date: 8/28/2009

PALM INTRANET

Time: 17:51:38

PTA Calculations for Application: 10/833925			
Application Filing Date:	04/28/2004	PTO Delay (PTO):	642
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	184
Post-Issue Petitions:	0	Total PTA (days):	344
PTO Delay Adjustment:	-114		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		114	
66	03/04/2009	MAIL NOTICE OF ALLOWANCE			
65	03/04/2009	MAIL EXAMINER'S AMENDMENT			
63	02/26/2009	CASE DOCKETED TO EXAMINER IN GAU			
62	02/26/2009	CASE DOCKETED TO EXAMINER IN GAU			
55	02/03/2009	ISSUE REVISION COMPLETED			
54	02/03/2009	DOCUMENT VERIFICATION			
53	02/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	02/02/2009	CASE DOCKETED TO EXAMINER IN GAU			
51	02/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
50	02/02/2009	NOTICE OF ALLOWABILITY			
49	01/30/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	12/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	12/29/2008	REFERENCE CAPTURE ON IDS			
46	12/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	01/13/2009	DATE FORWARDED TO EXAMINER			
44	12/29/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	01/13/2009	DATE FORWARDED TO EXAMINER			
42	12/29/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		68	37
41	01/13/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
		REQUEST FOR EXTENSION OF TIME - GRANTED			

40	12/29/2008				
39	12/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	12/29/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	07/22/2008	MAIL FINAL REJECTION (PTOL - 326)	25		30
36	07/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	07/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	06/21/2008	FINAL REJECTION			
33	04/17/2008	DATE FORWARDED TO EXAMINER			
32	03/19/2008	SUPPLEMENTAL RESPONSE		21	30
31	03/07/2008	DATE FORWARDED TO EXAMINER			
30	02/27/2008	RESPONSE AFTER NON-FINAL ACTION		95	27
29	02/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	02/05/2008	CORRESPONDENCE ADDRESS CHANGE			
27	08/24/2007	MAIL NON-FINAL REJECTION			
26	08/20/2007	NON-FINAL REJECTION			
25	06/18/2007	DATE FORWARDED TO EXAMINER			
24	06/05/2007	RESPONSE AFTER NON-FINAL ACTION			
23	03/07/2007	MAIL NON-FINAL REJECTION	617		-1
22	03/05/2007	NON-FINAL REJECTION			
21	09/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	10/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/31/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	03/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	09/13/2004	REFERENCE CAPTURE ON IDS			
16.7	09/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/24/2004	APPLICATION RETURN FROM OIPE			
14	09/24/2004	APPLICATION RETURN TO OIPE			
13	09/24/2004	APPLICATION RETURN FROM OIPE			
12	09/24/2004	APPLICATION IS NOW COMPLETE			
11	09/24/2004	APPLICATION RETURN TO OIPE			

10	09/24/2004	APPLICATION DISPATCHED FROM OIPE			
9	09/24/2004	APPLICATION IS NOW COMPLETE			
8	09/07/2004	ADDITIONAL APPLICATION FILING FEES			
7	09/07/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/04/2004	CLEARED BY L&R (LARS)			
4	05/28/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/28/2004	CASE CLASSIFIED BY OIPE			
2	05/14/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/28/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ONE STATE STREET
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OFFICE OF PETITIONS

In re Application of :
Nikolaev, Evgenij :
Application No. 10/833,938 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. B0004/7121 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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LOS ANGELES CA 90071-2611

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In re Application of :
Aoyagi, Akiyoshi :
Application No. 10/833,945 :
Filed: April 28, 2004 :
Attorney Docket No. 81754.0126 :
: ON PETITION
In re Application of :
Shiozawa, Masakuni :
Application No. 10/833,947 :
Filed: April 28, 2004 :
Attorney Docket No. 81754.0125 :

This is a decision on the petition filed on October 15, 2004 which is being treated as a petition under 37 CFR 1.182 to correct the files of the above-identified applications. Upon further review of the information submitted, this decision will also correct the petition decision mailed on February 2, 2004 in application 10/833,947.

Applicants request that the drawings filed in Application No. 10/833,945 on April 28, 2004, be transferred to the file of Application No. 10/833,947, and that the drawings filed in Application No. 10/833,947 on April 28, 2004, be transferred to the file of Application No. 10/833,945 and that the applications be accorded filing dates of April 28, 2004, with the drawings as part of the original disclosures.

Applicants' attorney, Ying Chen, explained that the specification for Application No. 10/833,945 were inadvertently filed with the drawings for Application No. 10/833,947, and that the specification for Application No. 10/833,947 was inadvertently filed with the drawings for Application No. 10/833,945.

The Office notes that the specification for Application No. 10/833,945 references Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D, while drawing Figures 1, 2A-2D, 3, 4, 5 and 6 were filed therewith. Conversely, the specification for Application No. 10/833,947 references Figures 1, 2A-2D, 3, 4, 5, and 6 while drawing Figures 1A- 1D, 2A-2C, 3, 4a-4b, 5A-5C and 6A-6D were filed therewith.

It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on April 28, 2004, since the drawings described in the specifications were not received with the respective specifications. However, in light of the contents of the brief descriptions of the drawings contained in the specifications of the respective applications, the evidence is persuasive that the drawings were misfiled.

Further, since the drawings were in fact present in the USPTO on April 28, 2004, the applications may be accorded filing dates of April 28, 2004, on petition under 37 CFR 1.182.

The six (6) sheets of drawings filed on April 28, 2004, in Application No. 10/833,945 will be removed and transferred to Application No. 10/833,947.

The six (6) sheets of drawings filed on April 28, 2004 in Application No. 10/833,947 will be removed and transferred to Application No. 10/833,945.

Application No. 10/833,945 will be reprocessed with the six (6) sheets of transferred drawings, containing Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D filed on April 28, 2004.

Application No. 10/833,947 will be reprocessed with the six (6) sheets of transferred drawings, containing Figures 1, 2A-2D, 3, 4, 5 and 6 filed on April 28, 2004.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 10/833,945 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of **April 28, 2004**, using the six (6) sheets of drawings containing Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D filed on April 28, 2004.

The replacement drawings submitted in Application 10/833,945 on October 15, 2004 in response to the Notice to File Missing Parts will be reviewed for compliance pursuant to 37 CFR 1.84 and 1.121 by the Office of Initial Patent Examination.

Application No. 10/833,947 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of **April 28, 2004**, using the six (6) sheets of drawings containing Figures 1, 2A-2D, 3, 4, 5 and 6 filed on April 28, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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DEC 29 2006

OFFICE OF PETITIONS

In re Application of :
Akiyoshi Aoyagi :
Application No. 10/833,945 : DECISION ON PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 817540126 :

This is a decision on the petition under 37 CFR 1.55(c), filed April 24, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to foreign Application No. 2003-127059, filed May 2, 2003.

The petition is **DISMISSED** as moot for the reason stated below.

A review of the file record discloses that a claim for priority to foreign Application No. 2003-127058, filed May 2, 2003, appears in the transmittal letter filed with this application. The petition states that the claim for benefit of priority to Application No. 2003-127058 was erroneous and that the claim for priority should have been to Application No. 2003-127059, filed May 2, 2003. The petition is accompanied by the petition fee of $1,370 and a Declaration and Power of Attorney, which now includes a claim for priority to Application No. 2003-127059, filed May 2, 2003.[1]

The filing of a petition in this case is unnecessary. In this regard, where a claim for priority was made within the period specified in 37 CFR 1.55(a)(1)(i) and included the correct filing date but referenced the incorrect application number of the prior foreign application, no petition under 37 CFR 1.55(c) and surcharge would be required to correct the application number in the priority claim after the four month period. This is because the Office was able to properly schedule the application for publication with the filing date given and

[1] It is noted that the executed declaration is not signed by the originally named inventor; however, a request to correct the inventorship under 37 CFR 1.48(a) was also filed on April 24, 2006, which must be decided by the primary examiner of Technology Center AU 2813.

the prior art under 35 U.S.C. § 102(e) would not be affected. *Note* Q&A number CX12 of the Eighteen-Month Publication Questions and Answers on the USPTO website under the American Inventor's Protection Act of 1999.

In view of the above, the instant petition is dismissed as involving a moot issue. Consequently, the $1,370 petition fee submitted will be credited to petitioner's deposit account in due course.

A corrected filing receipt has been mailed under separate cover.

This matter is being referred to Technology Center AU 2813 for further examination in due course.

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Masakuni Shiozawa	:	
Application No. 10/833,947	:	ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No.: 81754.0125	:	

This is a decision on the petition filed October 15, 2004 under 37 CFR 1.53(e).

The petition is hereby **DISMISSED**.

The above-identified application was filed April 28, 2004. On July 7, 2004, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed requesting, *inter alia*, oath or declaration, surcharge, and required fees. A response to the Notice was submitted August 2, 2004.

Petitioner indicates that review of his records reveals that the drawings submitted with the instant application, 10/833,947, were in fact intended to be filed in application No. 10/833,945. Moreover, petitioner indicates that the drawings that appear in application No. 10/833,945 were in fact intended to be submitted in the instant application, 10/833,947.

To rectify this filing error, petitioner herein requests that the instant application retain a filing date of April 28, 2004 and that the preliminary amendment requesting entry of replacement drawings submitted herewith be entered into the record.

As the application as filed was complete, petitioner was properly accorded a filing date of April 28, 2004. Thus, the instant request for a filing date of April 28, 2004 is deemed moot.

While the Office acknowledges receipt of the preliminary

amendment containing a request for entry of replacement drawings, petitioner is advised that the preliminary amendment will be forwarded to the appropriate group art unit for examination in due course.

Further consideration of this matter by the Office of Petitions is deemed unnecessary. Accordingly, this application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 28, 2004.

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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OFFICE OF PETITIONS

In re Application of :
Aoyagi, Akiyoshi :
Application No. 10/833,945 :
Filed: April 28, 2004 :
Attorney Docket No. 81754.0126 :
: ON PETITION
In re Application of :
Shiozawa, Masakuni :
Application No. 10/833,947 :
Filed: April 28, 2004 :
Attorney Docket No. 81754.0125 :

This is a decision on the petition filed on October 15, 2004 which is being treated as a petition under 37 CFR 1.182 to correct the files of the above-identified applications. Upon further review of the information submitted, this decision will also correct the petition decision mailed on February 2, 2004 in application 10/833,947.

Applicants request that the drawings filed in Application No. 10/833,945 on April 28, 2004, be transferred to the file of Application No. 10/833,947, and that the drawings filed in Application No. 10/833,947 on April 28, 2004, be transferred to the file of Application No. 10/833,945 and that the applications be accorded filing dates of April 28, 2004, with the drawings as part of the original disclosures.

Applicants' attorney, Ying Chen, explained that the specification for Application No. 10/833,945 were inadvertently filed with the drawings for Application No. 10/833,947, and that the specification for Application No. 10/833,947 was inadvertently filed with the drawings for Application No. 10/833,945.

The Office notes that the specification for Application No. 10/833,945 references Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D, while drawing Figures 1, 2A-2D, 3, 4, 5 and 6 were filed therewith. Conversely, the specification for Application No. 10/833,947 references Figures 1, 2A-2D, 3, 4, 5, and 6 while drawing Figures 1A- 1D, 2A-2C, 3, 4a-4b, 5A-5C and 6A-6D were filed therewith.

It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on April 28, 2004, since the drawings described in the specifications were not received with the respective specifications. However, in light of the contents of the brief descriptions of the drawings contained in the specifications of the respective applications, the evidence is persuasive that the drawings were misfiled.

Further, since the drawings were in fact present in the USPTO on April 28, 2004, the applications may be accorded filing dates of April 28, 2004, on petition under 37 CFR 1.182.

The six (6) sheets of drawings filed on April 28, 2004, in Application No. 10/833,945 will be removed and transferred to Application No. 10/833,947.

The six (6) sheets of drawings filed on April 28, 2004 in Application No. 10/833,947 will be removed and transferred to Application No. 10/833,945.

Application No. 10/833,945 will be reprocessed with the six (6) sheets of transferred drawings, containing Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D filed on April 28, 2004.

Application No. 10/833,947 will be reprocessed with the six (6) sheets of transferred drawings, containing Figures 1, 2A-2D, 3, 4, 5 and 6 filed on April 28, 2004.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

Application No. 10/833,945 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of **April 28, 2004**, using the six (6) sheets of drawings containing Figures 1A- 1D, 2A-2C, 3, 4A-4B, 5A-5C and 6A-6D filed on April 28, 2004.

The replacement drawings submitted in Application 10/833,945 on October 15, 2004 in response to the Notice to File Missing Parts will be reviewed for compliance pursuant to 37 CFR 1.84 and 1.121 by the Office of Initial Patent Examination.

Application No. 10/833,947 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of **April 28, 2004**, using the six (6) sheets of drawings containing Figures 1, 2A-2D, 3, 4, 5 and 6 filed on April 28, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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DEC 29 2006

OFFICE OF PETITIONS

In re Application of :
Masakuni Shiozawa :
Application No. 10/833,947 : DECISION ON PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 81754.0125 :

This is a decision on the petition under 37 CFR 1.55(c), filed April 21, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to foreign Application No. 2003-127058, filed May 2, 2003.

The petition is **DISMISSED** as moot for the reason stated below.

A review of the file record discloses that a claim for priority to foreign Application No. 2003-12705**9**, filed May 2, 2003, appears in the transmittal letter filed with this application. The petition states that the claim for benefit of priority to Application No. 2003-12705**9** was erroneous and that the claim for priority should have been to Application No. 2003-12705**8**, filed May 2, 2003. The petition is accompanied by the petition fee of $1,370 and a Declaration and Power of Attorney, which now includes a claim for priority to Application No. 2003-127058, filed May 2, 2003.[1]

The filing of a petition in this case is unnecessary. In this regard, where a claim for priority was made within the period specified in 37 CFR 1.55(a)(1)(i) and included the correct filing date but referenced the incorrect application number of the prior foreign application, no petition under 37 CFR 1.55(c) and surcharge would be required to correct the application number in the priority claim after the four month period. This is because the Office was able to

[1] It is noted that the executed declaration is not signed by the originally named inventor; however, a request to correct the inventorship under 37 CFR 1.48(a) was also filed on April 24, 2006, which must be decided by the primary examiner of Technology Center AU 2822.

properly schedule the application for publication with the filing date given and the prior art under 35 U.S.C. § 102(e) would not be affected. *Note* Q&A number CX12 of the Eighteen-Month Publication Questions and Answers on the USPTO website under the American Inventor's Protection Act of 1999.

In view of the above, the instant petition is dismissed as involving a moot issue. Consequently, the $1,370 petition fee submitted will be credited to petitioner's deposit account in due course.

A corrected filing receipt has been mailed under separate cover.

This matter is being referred to Technology Center AU 2822 for further examination in due course.

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 15 2006

OFFICE OF PETITIONS

In re Application of :
Daniel R. Burnett, et al. :
Application No. 10/833,950 : DECISION ON PETITION
Filed: April 27, 2004 : TO WITHDRAW
Attorney Docket No. 022190-000120US : 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 11, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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 September 13, 2004 does not include the reel and frame number or a proper chain of title.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL R. BURNETT
215 VALDEZ AVENUE
SAN FRANCISCO, CA 94127

cc: LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/833,950	04/27/2004	Daniel R. Burnett	022190-000120US

CONFIRMATION NO. 4503

OC000000021231656

OC000000021231656

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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LOS ANGELES, CA 90025-1030

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Ling Cen :
Application No. 10/833,963 : DECISION GRANTING PETITION
Filed: April 27, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 42P15925 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a complete reply to the Notice to File Missing Parts of Application (Notice) mailed July 7, 2004, which required the submission of an executed oath or declaration, a $130 surcharge fee for the late filing of the executed oath, and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a period for reply of two (2) months from the mail date of the Notice. On November 15, 2004, the Office received an executed oath, a $130 surcharge fee and a three month extension of time fee. As the reply to the Notice of July 7, 2004 was incomplete, this application became abandoned on December 8, 2004. A Notice of Abandonment was mailed on January 18, 2006, after the filing of the present petition to revive.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the remaining reply; i.e., replacement drawings, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of July 7, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Tim Frodsham	: DECISION ON REQUEST FOR
Patent Number	: 7586951	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/833,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1270** 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Steve Angelica
954 Palm Ave., #103
West Hollywood CA 90069

In re Application of
Steve Angelica
Application No. 10/833,971
Filed: April 28, 2004
For: **EXPANDING COMPUTER DISPLAY ADVERTISING METHOD AND SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 28, 2004 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.

Applicant's submission is deficient in that no references have been submitted.

As stated, Applicant must provide a copy of each of the references deemed most closely related to the subject matter if the references are not already of record. Applicant's statement that they "..have not yet found any claimed invention which in my opinion the claims in my own applications would directly read on...", is immaterial. The Office is not expecting the Applicant to search and find references which "read on" their claimed invention (thus invalidating Applicant's claims), but rather is requiring Applicant to submit copies of the references deemed most closely related. Applicant clearly is aware of information based upon references to web sites within their petition.

Applicant's submission is deficient with respect to the rigid comparison of the alleged infringing device, product or method in relation to the claims of the application.

At the time the petition was drafted the non-provisional application was not yet filed, i.e., the petition and non-provisional application were filed together. Applicant refers to the "..claims expressly embodied in the above provisional patent application..." and "While the provisional application primarily dealt with creating such an effect from an image button, the extension of this claims to use of text as an initial element was expressly and conspicuously reserved in the description of the invention". Applicant has clearly not set forth that a comparison was made with respect to the non-provisional application claims, but rather what has been disclosed in the provisional application.

In addition, Applicant's petition is deficient for failure to provide a statement that a rigid comparison of the infringing method has been made and that in the Applicant's opinion, some of the claims are unquestionably infringed.

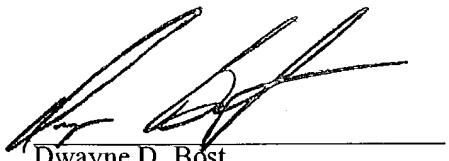
Applicant's statements that "..this product appears to infringe...Moreover, some versions of the product also appear to infringe...", are insufficient to satisfy this requirement.

Applicant's statements with respect to Vibrant Media's claim for patent pending and Applicant's inability to determine if Vibrant Media has filed a patent application and whether or not Vibrant Media would be a junior or senior part, are irrelevant with respect to consideration of this petition decision.

Accordingly, the Petition is **DENIED**.

The application file is being forwarded to Central Files 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. No extensions of time will be permitted.



Dwayne D. Bost
Special Program Examiner
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July 2005

HAMRE, SCHUMANN, MUELLER, & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402

AUG 29 2005

In re Application of:
HIROYUKI IMAMURA
Serial No.: 10/833,972
Filed: 27 April 2004
Docket: 10873.1441US01

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on June 7, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and that any election later required will be made without traverse; c) a statement that a pre-examination search was made, including the search areas; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the teaching of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the supplied references, and states that they do not teach the specific limitations claimed in the independent claims. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For instance, petitioner has not discussed exactly how the JP 5-243332 reference does not teach such shape features. A mere statement alleging that the claims contain a feature not found in the relevant prior art is insufficient. Petitioner is required to provide such detailed discussion for each reference.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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OFFICE OF PETITIONS

In re Application of :
David Bogart Dort :
Application No. 10/833,973 : ON PETITION
Filed: April 27, 2004 :
Attorney Docket No. VRBA.P002.B :

This is a decision on the petition filed September 13, 2004, requesting that the above-identified application be accorded a filing date of April 27, 2004, including Figure(s) 38a-c, as described in the specification.

The application was filed on April 27, 2004. However, on July 9, 2004, the Office of Initial Patent Application mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figure(s) 38a-c as described in the specification appear to have been omitted.

In response, on September 13, 2004, the instant petition was submitted. Petitioner asserts that Figure(s) 38a-c were submitted with the original drawings on April 27, 2004.

"The Applicant submits original drawing sheet marked "25/27" and filed on April, 27, 2004 in the original filing. The drawing in which 3 different figures appear at the lower half of the page, is clearly marked "FIG. 38." Through an oversight, the 3 individual figures were not labeled "38a, "38b," and, "38c," respectively."

In view of the above, it appears that the drawing of Figure(s) 38a-c were present on April 27, 2004, but mislabeled by applicants. Since it is now clear that Figure(s) 38a-c were present on April 27, 2004, albeit mislabeled, the Figures may be considered as filed with the application on April 27, 2004.

The petition is granted.

Petitioner must submit a corrected drawing sheet that correctly labels the Figures or, in the alternative, amend the specification to reference "Fig. 38" and not "Figs. 38a-c," before the first action is issued.

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of April 27, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office