UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DAVIDOFF MALITO & HUTCHER, LLP
200 Garden City Plaza
Suite 315
Garden City NY 11530

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Goldberg :
Application No. 10/833,988 : DECISION ON PETITION
Filed: April 28, 2004 : PURSUANT TO
Attorney Docket No.: 7685.050-US : 37 C.F.R. § 1.181(A)
Title: TRASH CONTAINER FOR DISPOSAL OF CIGARETTE WASTE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on August 31, 2009.

The petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED**.

Receipt of the concurrently submitted issue fee is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 27, 2009, which set a shortened statutory period for reply of three months, and required the submission of both the issue and the publication fees. Applicant's representative (Petitioner) attempted to submit these fees on June 19, 2009 via the submission of form PTOL-85b (which contained instructions to charge the fees to a deposit account), however when the Office attempted to charge these fees on June 19, 2009, the deposit account contained sufficient funds to cover the publication fee, but not the issue fee. No extensions of time are permitted for transmitting issue

fees.[1] Accordingly, the above-identified application became abandoned on July 28, 2009. A Notice of Abandonment was mailed on August 20, 2009.

ANALYSIS

With this petition, Petitioner has acknowledged that at the time of the submission of form PTOL-85b, and at the time when the Office attempted to effectuate the authorization to charge the deposit account, the relevant deposit account did not contain sufficient funds to cover the issue fee. However, Petitioner argues that on June 25, 2009, he deposited $8,000 into the deposit account, and as such, prior to the expiration of the period for response, the deposit account did contain sufficient funds.

37 C.F.R. § 1.25(b) indicates, *in pertinent part*:

> "[a]n authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee."

Sufficient funds were not present in the deposit account on the date on which the Office attempted to charge the deposit account, and as such, the required funds were not "present" in the Office within the meaning of Rule 1.25(b). This application went abandoned as a direct result of the fact that the deposit account was not properly funded, and it is immaterial that additional funds were placed into the account at a later date to cover the authorization.

It follows that the record does not support a finding that the holding of abandonment should be withdrawn.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a)[2] and/or (b).[3] Unless

---

1 See MPEP § 710.02(e)(III).

Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[8]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 The fee that is associated with the filing of this petition is presently set at $270 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0061.pdf.
3 The fee that is associated with the filing of this petition is presently set at $810 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0064.pdf.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

COPY MAILED

DEC 14 2009

OFFICE OF PETITIONS

DAVIDOFF MALITO & HUTCHER, LLP
200 Garden City Plaza
Suite 315
Garden City NY 11530

In re Application of	:	
Goldberg	:	
Application No. 10/833,988	:	DECISION ON PETITION
Filed: April 28, 2004	:	PURSUANT TO
Attorney Docket No.: 7685.050-US	:	37 C.F.R. § 1.137(B)
Title: TRASH CONTAINER FOR DISPOSAL OF CIGARETTE WASTE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 6, 2009, 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 submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 27, 2009, which set a shortened statutory period for reply of three months, and required the submission of both the issue and the publication fees. Applicant's representative (Petitioner) attempted to submit these fees on June 19, 2009 via the submission of form PTOL-85b (which contained instructions to charge the fees to a deposit account), however when the Office attempted to charge these fees on June 19, 2009, the deposit account contained sufficient funds to cover the publication fee, but not the issue fee. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on July 28, 2009. A Notice of Abandonment was mailed on August 20, 2009.

1 See MPEP § 710.02(e)(III).

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.

A petition pursuant to 37 C.F.R. § 1.181 was submitted on August 31, 2009, and was dismissed via the mailing of a decision on September 30, 2009.[2]

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

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

---

2 Office records establish that the issue fee was submitted concurrently with the petition pursuant to Rule 1.181.
3 See Rule 1.137(d).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

COPY MAILED
DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Grillot et al.	:	
Application No.: 10/833,995	:	DECISION ON
Filing or 371(c) Date: 04/28/2004	:	PETITION
Attorney Docket Number: VPI/00-128 RE US	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed August 11, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final office action, mailed August 26, 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 on February 27, 2006, however, the amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed March 17, 2006. Applicant filed a Request for Continued Examination ("RCE"), on March 21, 2006; however, the maximum extendable period for reply expired February 27, 2006. No complete and proper reply having been received, the application became abandoned on November 27, 2006. A Notice of Abandonment was mailed July 24, 2006.

Applicant files the instant petition and RCE, and requests entry of the amendment filed February 27, 2006 as his submission. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1624 for processing of the Amendment filed with the petition.

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

Derek L. Woods
Attorney
Office of Petitions

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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

Mail Date: 04/21/2010

Applicant	: Oluwole T. Aloba	: DECISION ON REQUEST FOR
Patent Number	: 7572779	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/833,997	: OF WYETH
Filed	: 04/29/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

Mail Date: 05/18/2010

Applicant : Oluwole T. Aloba
Patent Number : 7572779
Issue Date : 08/11/2009
Application No: 10/833,997
Filed : 04/29/2004

: 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 **1381** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 10, 2007

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No. 10834011 patent no. 7105995

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: _____

SPE 2879 Art Unit

10/834011

CofC

OIPE IAP87 NOV 13 2006 PATENT & TRADEMARK OFFICE

Docket No.: 1630-0133P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Sang PARK et al.

Patent No.: 7,105,995 B2

Issued: September 12, 2006

For: COLOR CATHODE RAY TUBE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Certificate of Correction NOV 15 2006

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPROVED 3/16/07

Upon reviewing the above-identified patent, Patentee noted a typographical error which should be corrected.

On the cover page of the patent, under section (73), please delete the following:

This patent is subject to a terminal disclaimer.

The error was not in the application as filed by applicant; accordingly no fee is required.

NOV 17 2006

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Dated: November 13, 2006

Respectfully submitted,

By James T. Eller, Jr.

James T. Eller, Jr.
Registration No.: 39,538
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

NOV 17 2006

JTE/RJW/jg

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.	:	7,105,995 B2
APPLICATION NO.	:	10/834,011
ISSUE DATE	:	September 12, 2006
INVENTOR(S)	:	Sang PARK et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

DELETE: **This patent is subject to a terminal disclaimer **

MAILING ADDRESS OF SENDER (Please do not use customer number below):
James T. Eller, Jr.
BIRCH, STEWART, KOLASCH & BIRCH, LLP 1
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747

NOV 17 2006

JTE/RJW/jg

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

COPY MAILED

AUG 1 8 2005

OFFICE OF PETITIONS

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

In re Application of :
Hiroshi Watanabe et al :
Application No. 10/834,031 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 252464US

This is a decision on the petition, filed August 17, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LINIAK BERENATO & WHITE, LLC
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Bruce C. Levin :
Application No. 10/834,057 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 8328.0001 :

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

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

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

Mail Date: 04/21/2010

Applicant	: Eric Williams	: DECISION ON REQUEST FOR
Patent Number	: 7655030	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1137** 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

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

Mail Date: 05/18/2010

Applicant : Eric Williams
Patent Number : 7655030
Issue Date : 02/02/2010
Application No: 10/834,066
Filed : 04/29/2004

: 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 **1165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,244,539	:	DECISION ON REQUEST
Baba et al.	:	FOR RECONSIDERATION OF
Issue Date: July 17, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/834,073	:	and
Filed: April 29, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 03500.018130.	:	CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed September 12, 2007. Patentees request that the Patent Term Adjustment indicated in the Issue Notification (and in the patent) be corrected from three hundred twenty-one (321) days to three hundred seventy-four (374) days.

The request for reconsideration of the patent term adjustment indicated in the patent 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 three hundred seventy-four (374) days.

On July 17, 2007, the above-identified application matured into U.S. Patent No. 7,244,539. The instant request for reconsideration filed September 12, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 321 days. Patentees dispute a reduction of 84 days associated with the filing of an amendment after notice of allowance on April 25, 2007. Patentees dispute the calculation of the period of reduction. Patentees state that the Office took action in response on May 25, 2007. Thus, the period of reduction is 31

days, not 84 days. In view thereof, the patent should have issued with a revised patent term adjustment of three hundred seventy-four (374) days.

Patentees are correct. A review of the relevant application history confirms that the amendment was filed on April 25, 2007 and the Office's response was mailed on May 25, 2007. Pursuant to 37 CFR 1.704(c)(10), a period of reduction of 31 days should have been entered for the filing of the 312 amendment, counting the number of days in the period beginning on April 25, 2007, the date of filing of the amendment, and ending on May 25, 2007, the date of mailing of the examiner's amendment mailed in response. The period of reduction of 84 days has been removed and the period of reduction of 31 days has been entered.

In view thereof, the patent term adjustment indicated on the patent should be three hundred seventy-four (374) days.

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

The application 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 **THREE HUNDRED SEVENTY-FOUR (374)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,244,539 B2

DATED : **July 17, 2007**

INVENTOR(S) : Baba 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 321 days

Delete the phrase "by 321 days" and insert – by 374 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

MAY 6 2008

In re Application of	:	DECISION ON REQUEST TO
Masa-aki SUZUKI et al.	:	PARTICIPATE IN PATENT
Application No. 10/834078	:	PROSECUTION HIGHWAY
Filed: April 29, 2004	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 063979-0043	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 3, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fails because:

(4) Examination of the U.S. application has already begun with a Notice of Allowability mailed April 2, 2008.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Kathryn Gorgos
TC 1700 TQAS

McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

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

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

STANLEY P. FISHER
REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042-4503

In re Application of: HIGASHIJIMA, et al.
Application No. 10/834,084
Filed: April 29, 2004
For: DISK ARRAY DEVICE FOR IDLE SEEK

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

This is a response to the petition filed January 5, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed January 5, 2005 fails to adequately meet requirement (e) of the criteria set forth above.

With respect to requirement (e), applicant must provide a detailed discussion of the reference documents (EP 0978824, US 5,859,738 and JP 3-76078 of Shioya, Forehand and Ysuhiro respectively) since applicant has deemed these references as some of the most closely related references. Petitioner should ensure that the above discussion is directed to how the language of each of the independent claim is specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the references were cited only to provide background knowledge of the invention is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

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

3/17/05

SDL: 03/15/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANLEY P. FISHER
REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042-4503

MAIL

JUN 0 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: HIGASHIJIMA, et al.
Application No. 10/834,084
Filed: April 29, 2004
For: DISK ARRAY DEVICE FOR IDLE SEEK

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

This is a response to the Renewed Petition filed April 20, 2005, to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on January 5, 2005 and dismissed on March 24, 2005.

The Petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

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

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

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

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

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

5/24/05

SDL: 05/17/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYNDAK & SURI
30 NORTH LASALLE STREET
SUITE 2630
CHICAGO, IL 60602

COPY MAILED

JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Richard F. Bellas, et al. :
Application No. 10/834,096 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 40300-10109 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 7, 2005.

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

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

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

Retta Williams

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

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Mark G. Neubauer	: DECISION ON REQUEST FOR
Patent Number	: 7600959	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **579** 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

WILLIAM C SCHROT
LINIAK BERENATO & WHITE, LLC
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of :
James Dewey Maxey :
Application No. 10/834,106 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 4802.100 :

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 Retta Williams at (571) 272-3229.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/30/2010

Applicant	: Hubert Bucher	: DECISION ON REQUEST FOR
Patent Number	: 7658037	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/834,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1273** 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; C. Chaney

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/5/06

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834,142 Patent No.: 7045475

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: _____

_____

_____

_____

_____

Carol Chaney — **SPE**

1773 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 145
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

DEC 0 2 2004

TECHNOLOGY CENTER 3600

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re application of
Kevin John Sharpe, et al.
Application No. 10/834,165
Filed: April 29, 2004
For: EXPLOSIVE EFFECT MITIGATED CONTAINERS

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition submitted on April 29, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition includes a verified statement by applicants' attorney, Anne M. Kornbau. Ms. Kornbau states, "The invention provides containers and methods for making these containers that contain an explosion or blast." She goes on to say, that "(b)y absorbing the effects of the blast or explosion, the container remains intact and noxious gases and fumes are not dispersed as a result of the explosion."

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, Ms. Kornbau's statements are lacking in that they fail to explain, and establish for the record, how applicants' invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil. While it may be that "noxious gasses and fumes" can be contained as a result of applicants' invention, it is not clear from Ms. Kornbau's statement that this, in fact, leads to the "restoration" or "maintenance" of one or more of the basic life-sustaining elements-air, water and soil.

For the reasons stated above, the petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants 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.

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

RAR/rwg: 11/04/04

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
DIW Feb-06

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

COPY MAILED

FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Wang Kuang Pin :
Application No. 10/834,213 : DECISION ON PETITION
Filed: 29 April, 2004 :
Atty Docket No. MR1683-545 :

This is a decision on the petition filed on 30 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 August, 2005, for failure to timely reply to the non-final Office action mailed on 4 May, 2005, which set a three (3) month shortened statutory period for

---

[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)).

reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 12 December, 2005.

Petitioners have filed an amendment in reply to the non-final Office action

This application is being referred to Technology Center Art Unit 3652 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 0 8 2008

OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Application of :
Wang Kuang Pin :
Application No. 10/834,213 : ON PETITION
Filed: April 29, 2004 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed February 9 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 10, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/29/09

TO SPE OF : ART UNIT 2871 David Nelms

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834233 Patent No.: Re 40130E

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

[signature]
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

[signature]
SPE

2871
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

COPY MAILED

AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Yoshihiro Ushigusa :
Application No. 10/834,252 : DECISION GRANTING PETITION
Filed: April 29, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61611510US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 31, 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 August 1, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 13 2009

OFFICE OF PETITIONS

AVAYA
DEMONT & BREYER, LLC
100 COMMONS WAY, STE 250
HOLMDEL NJ 07733

In re Application of
Martin Kappes et al
Application No. 10/834,291
Filed: April 28, 2004
Attorney Docket No. 633-060us

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed April 9, 2009, requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on January 12, 2009, with the issue fee being due on or before April 13, 2009. The issue fee in this case has not been paid.

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

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

The matter is being referred to Technology Center AU 2617 for appropriate processing of the RCE filed April 9, 2009, 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Martin Kappes	: DECISION ON REQUEST FOR
Patent Number	: 7583961	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,291	: 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 **385** 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

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

COPY MAILED

NOV 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Bottemiller	:	
Application No. 10/834,294	:	DECISION ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No. H203.12-0019	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2007. The Notice of Abandonment was mailed January 25, 2008.

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

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

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

This application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
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

Harold L. Burstyn
Milde & Hoffberg
10 Bank Street-Suite 460
White Plains, NY 10606

COPY MAILED
JUL 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Andrew Olney	:	
Application No. 10/834,307	:	DECISION ON PETITION
Filed: April 28, 2004	:	TO WITHDRAW
Attorney Docket No. IPMC201	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 19, 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 Harold L. Burstyn 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 Andrew Olney at the address indicated below.

There is an outstanding Office action mailed May 31, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Andrew Olney
Intelligent Power Management Corp.
901 Broad Street, 2nd Floor
Utica, NY 13501

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

HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY, MO 64108

COPY MAILED

NOV 22 2004

OFFICE OF PETITIONS

In re Application of :
Toye et al. :
Application No. 10/834,311 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 34933 :

This is a decision on the petition filed September 28, 2004, to accord the above-identified application a filing date of April 28, 2004.

The petition is **dismissed**.

On April 28, 2004, the application was deposited.

On August 2, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

A copy of the drawings was submitted on August 19, 2004.

Te present petition was filed on September 28, 2004. The petition alleges that drawings were filed on April 28, 2004.

In support of petitioner's allegation, petitioner has supplied declarations from several parties and a copy of the transmittal sheet.

All the evidence present in the file has been carefully considered, but is not persuasive that drawings were submitted with the original application.

Petitioner has failed to establish that drawings were received by the Office.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that drawings were filed on April 28, 2004, the file of application No. 10/834,311[1] shows that drawings were not received, since no such drawings are present in the file. An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, the copying machine, or another reason. The best evidence of what was filed on April 28, 2004, is the application file itself. Accordingly, an applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. The declarations do not have more probative value than the official government record of what was actual received in the USPTO on April 28, 2004.

The instant petition illustrates the reason the USPTO established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.[2]

The Office of Initial Patent Examination will be informed of the instant decision and will process the file with a filing date of August 19, 2004, using the papers filed on April 28, 2004, and the drawings filed on August 19, 2004.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

[2] See section 503, Manual Of Patent Examining Procedure (MPEP 503).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/19/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/834321** Patent No.: **7313165**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: Corrections approved because they correct typographical errors in the application

SPE — Art Unit 2611

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 081104

MARCOS Y. KLEINERMAN
215 SUNSET AVENUE
AMHERST, MA 01002-1940

AUG 24 2004

In re Application of:	:	
MARCOS Y. KLEINERMAN	:	DECISION ON PETITION
Serial No.: 10/834,332	:	TO MAKE SPECIAL
Filed: April 28, 2004	:	
Attorney Docket No.:	:	

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

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventor, Marcos Y. Kleinerman, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Marcos Y. Kleinerman
215 Sunset Avenue.
Amherst, MA 01002

APR 0 6 2006

In re Application of:
Kleinerman.
Serial No.: 10/834,332
Filed: April 28, 2004
Attorney Docket No.: **N/A**

DECISION ON PETITION
FROM EXAMINER'S REQUIREMENT TO
DELETE AN EMBEDDED HYPERLINK

This is a decision in response to the communication filed March 01, 2006. The communication has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the examiner's requirement that Applicant delete from the disclosure an "embedded hyperlink and/or other form of browser-executable code". No petition fee is required.

The petition is **DENIED**.

The M.P.E.P. states clearly that "Examiner's must review patent applications to make certain that hyperlinks **and other form of browser-executable code**, especially commercial site URLs, are not included in a patent application" (emphasis added). On page 12 of applicant's specification is found the text

http://constellation.gsfc.nasa.gov/docs/technology/calorimeters.html.

This constitutes browser-executable "code", and is not permitted in an application. Applicant's argument that the specification was filed in paper form has no bearing on the fact that the "code" is present in the specification. An explanation of the rationale for this requirement is also found in MPEP 608.01 (VII). The requirement that this text be deleted from the specification is maintained.

Any inquiry regarding this decision should be directed to David P. Porta, Supervisory Patent Examiner, at (571) 272-2444.

The application file will continue to be processed for appeal.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

APR 08 2008

OFFICE OF PETITIONS

In re Application of :
W.J.K. Herwegh VONK :
Application No. 10/834,334 : DECISION ON PETITION
Filed: April 28, 2004 : TO WITHDRAW
Attorney Docket No. 56019231-4 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 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 request cannot be approved because the attorneys/agents of record were not appointed by Customer No. 26453 as indicated. The attorneys/agents of record were appointed individually.

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: EASY-COM UK LIMITED
ATTN: PETER ULRICH
428 PINNER ROAD
HARROW HA2 6EF
ENGLAND

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

JUL 07 2008

OFFICE OF PETITIONS

In re Application of
W. J. K. Herwegh VONK
Application No. 10/834,334
Filed: April 28, 2004
Attorney Docket No. 56019231-4

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 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 request cannot be approved because there is no certification that: (1) practitioner has given reasonable notice to the client, prior to the expiration of the maximum time period for filing a response to the Office action mailed December 28, 2007; and (2) practitioner has delivered to the client or a duly authorized representative of the client, all papers and property (including funds) to which the client is entitled. If practitioner cannot make the above certifications, an explanation detailing why the certification(s) cannot be made must be included with the Request.

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: PETER ULRICH
EASY-COM UK LIMITED,
428 PINNER ROAD
HARROW HA2 6EF
ENGLAND

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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

COPY MAILED

MAY 0 4 2007

OFFICE OF PETITIONS

In re Application of
Feller, Alan S.
Application No. 10/834,338
Filed: April 29, 2004
Attorney Docket No. 13028/3

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 10/320,759, filed December 16, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

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

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed April 17, 2007, fails to state the relationship of Application No. 10/320,759, filed December 16, 2002, to the instant application.

Further, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and stating the relationship of the prior-filed application to the instant application, 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

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Feller, Alan S. :
Application No. 10/834,338 : DECISION GRANTING PETITION
Filed: April 29, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13028/3 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the 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 prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment filed May 23, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/834,338	04/29/2004	3731	666	13028/3	44	2

CONFIRMATION NO. 7695

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

CORRECTED FILING RECEIPT

OC000000024683887

Date Mailed: 07/05/2007

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)

Alan S. Feller, Woodmere, NY;

Power of Attorney: The patent practitioners associated with Customer Number **23838**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/320,759 12/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/834,338

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Apparatus and method for dermal punch and follicular unit circumferential incision

Preliminary Class

606

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).

Ex. T. Williams

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834,354 Patent No.: 7204478

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: _____

Robert A. Siconolfi
Robert A. Siconolfi
SPE

3683
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 01 2010

OFFICE OF PETITIONS

In re Application of
Hidetoshi Suzuki et al.
Application No. 10/834,373
Filed: April 29, 2004
Attorney Docket No. 023971-0419

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)", filed August 26, 2009. Pursuant to their duty of good faith and candor to the Office, applicants note that the 201 days of patent term adjustment as indicated on the Notice of Allowance mailed on July 10, 2009 for the above-captioned application disagrees with the Applicants' own calculation of Patent Term Adjustment.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED.**

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 one hundred twenty-eight **(128)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 10, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 201 days. Applicants direct the office to the amendment filed October 10, 2008 and argues that the "The PTO does not indicate that the Amendment was filed".

A review of the record reveals that the initial determination of patent term adjustment of 201 days is incorrect.

Pursuant to 37 CFR 1.704(b), a period of reduction of 73 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date

the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, a non-Final Office action was mailed February 25, 2008. Amendments filed May 27, 2008 and July 29, 2008 were not in compliance and the period for reply continued to run. (See Notice of Non-Compliant Amendment (37 CFR 1.121) mailed September 10, 2008). A proper reply, was not received in the Office until October 10, 2008. Pursuant to § 1.704(b), the patent term adjustment should have been reduced by an additional 73 days for applicant delay from July 29, 2008 to October 10, 2008, the date of filing of the reply to the non-Final Amendment.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED TWENTY-EIGHT (128)days (357 days of Office delay reduced by 229 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

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

/Kery A. Fries/

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

Enclosure: Copy of Revised PALM Screen

PTA Calculations for Application: 10/834373			
Application Filing Date:	04/29/2004	PTO Delay (PTO):	357
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	156
Post-Issue Petitions:	0	Total PTA (days):	128
PTO Delay Adjustment:	-73		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		146	
90	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	73		
81	07/10/2009	MAIL NOTICE OF ALLOWANCE			
80	06/23/2009	ISSUE REVISION COMPLETED			
79	06/23/2009	DOCUMENT VERIFICATION			
78	06/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	06/23/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	06/22/2009	NOTICE OF ALLOWABILITY			
74	04/08/2009	DATE FORWARDED TO EXAMINER			
73	03/24/2009	RCE- AF PROCESSED			
72	04/08/2009	DATE FORWARDED TO EXAMINER			
71	03/24/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		27	62
70	04/08/2009	DISPOSAL FOR A RCE / CPA / R129			
69	03/24/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	03/24/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
67	03/11/2009	MAIL ADVISORY ACTION (PTOL - 303)			
66	03/11/2009	ADVISORY ACTION (PTOL-303)			
65	02/25/2009	NEW OR ADDITIONAL DRAWING FILED			
64	03/03/2009	DATE FORWARDED TO EXAMINER			
63	02/25/2009	AMENDMENT AFTER FINAL REJECTION			
62	11/25/2008	MAIL FINAL REJECTION (PTOL - 326)			
61	11/24/2008	FINAL REJECTION			
60	09/17/2008	DATE FORWARDED TO EXAMINER			
59	07/29/2008	RESPONSE AFTER NON-FINAL ACTION		63	56

58	09/10/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
57	07/08/2008	DATE FORWARDED TO EXAMINER			
56.1	05/27/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
56	05/27/2008	RESPONSE AFTER NON-FINAL ACTION		2	54
55	06/09/2008	CASE DOCKETED TO EXAMINER IN GAU			
54	02/25/2008	MAIL NON-FINAL REJECTION			
53	02/24/2008	DATE FORWARDED TO EXAMINER			
52	02/01/2008	SUPPLEMENTAL RESPONSE		63	47
51	02/19/2008	NON-FINAL REJECTION			
50	01/17/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
49	01/15/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	12/14/2007	DATE FORWARDED TO EXAMINER			
47	11/30/2007	RESPONSE AFTER NON-FINAL ACTION			
46	08/31/2007	MAIL NON-FINAL REJECTION			
45	08/29/2007	NON-FINAL REJECTION			
44	06/27/2007	DATE FORWARDED TO EXAMINER			
43	06/22/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	06/27/2007	DATE FORWARDED TO EXAMINER			
41	06/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	06/27/2007	DISPOSAL FOR A RCE / CPA / R129			
39	06/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	05/17/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	03/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	03/19/2007	FINAL REJECTION			
35	01/10/2007	DATE FORWARDED TO EXAMINER			
34	01/03/2007	RESPONSE AFTER NON-FINAL ACTION		1	31
33	01/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	01/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	10/02/2006	MAIL NON-FINAL REJECTION			
30	09/28/2006	NON-FINAL REJECTION			
29	04/29/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

28	11/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	01/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	07/18/2006	DATE FORWARDED TO EXAMINER			
25	07/13/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
24	06/21/2006	MAIL RESTRICTION REQUIREMENT	357		-1
23	06/13/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	04/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
21.7	01/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	01/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	11/22/2005	REFERENCE CAPTURE ON IDS			
18.7	11/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	04/29/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	04/29/2004	REFERENCE CAPTURE ON IDS			
14.7	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	09/23/2004	APPLICATION RETURN FROM OIPE			
11	09/23/2004	APPLICATION RETURN TO OIPE			
10	09/23/2004	APPLICATION DISPATCHED FROM OIPE			
9	09/23/2004	APPLICATION IS NOW COMPLETE			
8	09/07/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	09/07/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	07/07/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	06/01/2004	CLEARED BY OIPE CSR			

3	06/01/2004	CASE CLASSIFIED BY OIPE			
2	05/14/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/29/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

COPY MAILED

MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
SRIVASTAVA, et al.	:	
Application No. 10/834,375	:	DECISION ON PETITION
Filed: April 29, 2004	:	TO WITHDRAW
Attorney Docket No. **4995.0056-01**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 24, 2007.

The request is **APPROVED.**

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

The request was signed by Deborah Katz. Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 06/01/2010

Applicant	: Juha Ojanpera	: DECISION ON REQUEST FOR
Patent Number	: 7627480	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/834,376	: 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 **1358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAY 31 2005

Brown & Michaels, P.C.
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

In re application of
Anthony Hesse
Application No. 10/834,387 : DECISION ON REQUEST
Filed: April 29, 2004 : FOR WITHDRAWAL OF
For: LUMINESCENT OBJECTS : ATTORNEY
PRINTED ADVERTISING

This is a decision on the renewed request filed on January 27, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved . Since a signature has been omitted, a determination as to who is withdrawing cannot be made. It is noticed, however, the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed January 31, 2005.

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

SNM/dcg: 5/26/05

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

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

Mail Date: 04/20/2010

Applicant	: Michael M. Ramarge	: DECISION ON REQUEST FOR
Patent Number	: 7633737	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** 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

Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

COPY MAILED
AUG 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Hu, et al.	:	
Application No. 10/834,404	:	DECISION ON PETITION
Filed: April 29, 2004	:	TO WITHDRAW
Attorney Docket No. RUS0121	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

April M Wise
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

3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: Michael S. Borella	: DECISION ON REQUEST FOR
Patent Number	: 7573873	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,418	: OF WYETH
Filed	: 04/28/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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: 05/18/2010

Applicant	: Michael S. Borella	: NOTICE CONCERNING IMPROPER
Patent Number	: 7573873	: DISMISSAL OF THE REQUEST
Issue Date	: 08/11/2009	: FOR RECALCULATION OF
Application No	: 10/834,418	: PATENT TERM ADJUSTMENT
Filed	: 04/28/2004	: 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 **1386** 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).

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

DUANE MORRIS LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Charles A. Motchenbacher, James W. :
Robison, Brian J. Higgins, Thomas :
J. Fonville :
Application No. 10/834,427 :
Filed: April 29, 2004 :
Attorney Docket No. D4706-00070

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 7, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 29, 2004. On July 6, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on September 7, 2004, made timely by including a Certificate of Mailing dated September 3, 2004. Accompanying the petition was a declaration executed by all of the inventors except Thomas J. Fonville.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1).

As to requirement (1), the petition has been carefully considered. However, petitioner has not demonstrated diligent effort in finding the non-signing inventor. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that **fully describes the exact facts** which are relied on to establish that a diligent effort was made."[1] Here, petitioner has provided no information other than "[d]espite repeated efforts to obtain Mr. Fonville's signature for foreign applications which correspond to the above-identified application, we have been unable to obtain any such signature." Applicant has not provided any details of the efforts taken to obtain Fonville's signature. In addition, applicant has provided no documentary evidence, such as a certified mail return receipt or copies of an internet search.[2]

Receipt of the $130 petition fee is acknowledged. No additional petition fee is required on request for reconsideration.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d) (emphasis added).

[2] Such documentary evidence should be made part of the affidavit or declaration. See id.

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

COPY MAILED

DEC 15 2004

OFFICE OF PETITIONS

DUANE MORRIS LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

In re Application of :
Charles A. Motchenbacher, James W. :
Robison, Brian J. Higgins, Thomas :
J. Fonville :
Application No. 10/834,427 :
Filed: April 29, 2004 :
Attorney Docket No. D4706-00070

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(A) MOOT

This is in response to the petition under 37 CFR 1.47(a), filed October 29, 2004.

The above-identified application was filed on April 29, 2004. On July 6, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on September 7, 2004, made timely by including a Certificate of Mailing dated September 3, 2004. However, the petition was dismissed in a decision mailed on October 6, 2004.

In view of the **joinder** of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to Group Art Unit 1754 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAEGRE & BENSON, LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

COPY MAILED

AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
THIELEN, David. :
Application No. 10/834,444 : DECISION ON PETITION
Filed: April 28, 2004 : TO WITHDRAW
Attorney Docket No. 4800.101.01US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 13, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **FAEGRE & BENSON, LLP** has been revoked by the assignee of the patent application on June 18, 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: NEUGEBOREN LAW FIRM, PC
1035 PEARL STREET, SUITE 400
BOULDER, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No.

GEORGE S. COLE, ESQ.
495 SEAPORT COURT, SUITE 101
REDWOOD CITY CA 94063

COPY MAILED

JAN 19 2005

OFFICE OF PETITIONS

In re Application of
Matityahu et al.
Application No. 10/834,448 : DECISION ON PETITION
Filed: April 28, 2004
Title: ZERO-INTERRUPT NETWORK TAP

This is a decision on the "PETITION TO CONSIDER NON-OMITTED ITEM," filed October 28, 2004. Applicants request that the above-identified application be accorded a filing date of April 28, 2004, with figure 3 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on April 28, 2004. However, on July 27, 2004, applicants were mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application papers had been accorded a filing date of April 28, 2004; however, figure 3 described in the specification appeared to have been omitted from the application.

In response, petitioners timely filed the instant petition. Petitioners assert that all 5 drawings (Figure 1 through Figure 5) were submitted with the original application, with Figure 3 stapled with and in the middle of the other drawings. In support of the petition, applicants submitted copies of the Utility Patent Application Transmittal; the Express Mail certificate; the Itemization of Mailing; an Attorney Cover Letter, asking the Itemization and a SASE be used as a checklist in lieu of a postcard, to confirm that the materials sent had been received; and a "screen shot" of the computer file containing all five drawings. A duplicate copy of Figure 3 was enclosed.

Petitioners evidence has been considered, but not found persuasive that figure 3 was present in the application on filing. A review of the application file reveals that this figure was not among the papers received in this application by way of Deposit in Express Mail on April 28, 2004, as this figure is not present in the application file. The application file is the official record of the papers filed in an application. Papers not present in the application file are not considered present in the application absent convincing evidence to the contrary (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.) Further, the official

file shows that the application transmittal letter contains a notation made by a PTO employee that "there are only 4 pages" of drawings.

MPEP 503, provides for establishing deposit of papers in the USPTO by way of use of return postcards, as follows:

> If a receipt for 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. To ensure the receipt of return receipt postcards, users must either:
>
> (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards;
>
> or
>
> (B) if a postage meter is used, ensure that the meter postmark does not show the date.
>
> ...
>
> 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.

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.

Petitioners admittedly did not follow the well-established return postcard practice. Rather, in lieu of a postcard, petitioners state they submitted a copy of an attorney cover letter, asking for itemization and a SASE to be used as a checklist. Petitioners submit a copy of the Itemization of Mailing which they state was returned by the USPTO with plastic stickers on three places, two indicating the application serial number and all three having the filing date (042804) respectively above and below the bar-code.

The Office has not set forth a practice of reviewing such cover letters and returning them in self-addressed stamped envelopes with notations of what was missing in the application on filing. The Office has made clear that acknowledgment of receipt is by way of the stamping of a self-addressed postcard specifically identifying the items being filed.

Furthermore, even if the practice were to review such mailed transmittals, the copy of the transmittal in Office records indicates that figure 3 was not present. It is noted on the Office copy of the transmittal that the USPTO did not receive "5 Pages of Drawings. There are only 4 pages." Thus, at the point when the transmittal was reviewed for content, the drawing page was not in the application.

Moreover, the Office does not review certificates of mailing or Express Mail mailing labels for the purpose of verifying the contents of applications on filing. Thus, neither of these items are found persuasive. These items, as well as, the "screen shot" of the computer file support a conclusion that applicants

intended to include figure 3 in the original application disclosure, but are not persuasive that he did in fact do so.

Finally, the presence of the drawing figure in petitioner's copy of the application is not persuasive evidence that the application as filed included the drawing sheet. The mere presence of the page in the copy of the application papers does not eliminate the possibility that the page was omitted in copying and transmitting the application to the Office.

Petitioners' evidence considered singularly, or, in totality, does not overcome the office's record of the papers filed in this application.

In view thereof, the petition is **DISMISSED**.

The application, with a filing date of April 28, 2004, (and indication in Office records that four (4) sheets of drawings were present in the application on filing) will be examined in Technology Center 2661 in due course.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE S. COLE, ESQ.
495 SEAPORT COURT, SUITE 101
REDWOOD CITY CA 94063

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Eldad MATITYAHU, et al	:	
Application No. 10/834,448	:	DECISION ON PETITION
Filed: April 28, 2004	:	TO WITHDRAW
Attorney Docket No.	:	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 7, 2010.

The request is **APPROVED**.

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

The request was signed by George S. Cole on behalf of the attorneys of record associated with Customer No. 37387

The attorneys of record associated with Customer No. 37387 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 until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ELDAD MATITYAHU,
C/O NET OPTICS, INC.
5303 BETSY ROSS DRIVE
SANTA CLARA CA 95054

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 13, 2006

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834449 Patent No.: 7,068,039 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: _____

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2858
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/834,464	04/29/2004	Wassim Haddad	300201343-2	6728

7590 05/21/2008

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

EXAMINER	
DEANE JR, WILLIAM J	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
05/21/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

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

Patent Publication Branch
Office of Data Management

Adjustment date: 05/22/2008 NFARMER
05/03/2004 EHAILE1 00000002 082025 10834464
02 FC:1201 344.00 CR
04 FC:1203 290.00 CR

Adjustment date: 05/22/2008 NFARMER
07/08/2004 BHABTEW 00000003 082025 10834464
01 FC:1202 72.00 CR

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

PERKINS COIE
ATTN: DAVID T. DUTCHER
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED

JUL 20 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Barry Michael Nelson et al :
Application No. 10/834,465 :
Filed: April 29, 2004 :
Attorney Docket No. 579368001US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed July 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2004.

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

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE
ATTN: DAVID T. DUTCHER
P.O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Nelson, et al. : DECISION ON APPLICATION
Application No. 10/834,465 : FOR PATENT TERM ADJUSTMENT
Filed: April 29, 2004 :
Atty. Dkt. No.: 579368001US :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed May 2, 2008.

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 February 4, 2008 indicated that the application is entitled to an adjustment of 247 days. Applicants argue that the correct adjustment is 349 days. Applicants argue that the application is entitled to a further adjustment of 22 days in connection with the Notice of Allowance mailed April 20, 2007. Applicants further argue that the application is entitled to a further adjustment of 80 days in connection with the mailing of the Notice of Allowance on February 4, 2008.

The correct PTA at the time of the allowance is 64 days as discussed herein.

Applicants do not contest the adjustment of 280 days accorded under 37 CFR 1.703(a)(1) in connection with the Office action mailed April 5, 2006.

Applicants do not contest the reduction of 33 days accorded under 37 CFR 1.704(b) in connection with the reply filed August 7, 2006.

Applicants argue that the application is entitled to a further adjustment of 22 days in connection with the Notice of Allowance mailed April 20, 2007.

An RCE was filed November 29, 2006. In response, a Notice of Allowance was mailed on April 20, 2007. Thus, in accordance with 37 CFR 1.702(a)(2), the application is entitled to a further

adjustment of 22 days. The adjustment commenced March 30, 2007, the day after the date that is four months after the date that the RCE was filed, and ended April 20, 2007, the date that the Notice of Allowance was mailed.

Thus, as argued by applicants, the application is entitled to a further adjustment of 22 days.

Applicants further argue that the application is entitled to a further adjustment of 80 days in connection with the Notice of Allowance mailed February 4, 2008.

An RCE was filed July 16, 2007. In response, a Notice of Allowance was mailed February 4, 2008. Thus, in accordance with 37 CFR 1.702(a)(2), the application is entitled to a further adjustment of 80 days. The adjustment commenced November 17, 2007, the day after the date that is four months after the date that the RCE was filed, and ended February 4, 2008, the date that the Notice of Allowance was mailed.

Thus, as argued by applicants, the application is entitled to a further adjustment of 80 days.

A review of the record further reveals that the Office neglected to assess a reduction in connection with the petition to revive filed May 6, 2005.

A Notice to File Corrected Application Papers was mailed July 8, 2004. The Notice to File Corrected Application Papers set a two month shortened statutory period of time for reply, making a reply due on or before September 8, 2004. A reply containing informalities and a one month extension of time were filed October 14, 2004. A one month extension of time extended the period of time for submission of a proper reply to October 8, 2004. A Notice of Informal Application was mailed October 26, 2004. The Notice of Informal Application did not set a new period of time for reply to the Notice to File Corrected Application Papers. Thus, the application became abandoned October 9, 2004 for failure to timely submit a proper reply to the Notice to File Corrected Application Papers.

The petition to revive, filed May 6, 2005, preceded Notice of Abandonment. A decision on the petition was mailed July 20, 2005.

Thus, in accordance with 37 CFR 1.704(c)(3)(i), the adjustment is properly reduced an additional 285 days. The reduction

commenced October 9, 2004, the date of abandonment of the application, and ended July 20, 2005, the date that the decision granting the petition and reviving the application was mailed..

In view thereof, at the time of allowance, the application is entitled to an adjustment of 64 days (adjustments totaling 382 days less reductions totaling 318 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 Office 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 Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 5/21/2009

PALM INTRANET

Time: 15:33:55

PTA Calculations for Application: 10/834465			
Application Filing Date:	04/29/2004	PTO Delay (PTO):	280
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	64
PTO Delay Adjustment:	-183		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	05/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		183	
68	02/04/2008	MAIL NOTICE OF ALLOWANCE			
67	12/12/2007	ISSUE REVISION COMPLETED			
66	10/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	10/05/2007	DOCUMENT VERIFICATION			
64	10/05/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
63	10/01/2007	NOTICE OF ALLOWABILITY			
62	07/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	07/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	07/20/2007	DATE FORWARDED TO EXAMINER			
59	07/16/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
58	07/20/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
57	07/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	07/16/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	04/23/2007	EXPORT TO INITIAL DATA CAPTURE			
54	04/20/2007	MAIL NOTICE OF ALLOWANCE			
53	01/05/2007	ISSUE REVISION COMPLETED			
52	01/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	01/04/2007	NOTICE OF ALLOWABILITY			
50	11/29/2006	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
49.7	11/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	11/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	11/29/2006	PRELIMINARY AMENDMENT			
47	12/29/2006	DATE FORWARDED TO EXAMINER			
46	11/29/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
45	12/29/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
44	12/27/2006	RECEIPT INTO PUBS			
43	12/18/2006	RECEIPT INTO PUBS			
42	11/29/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
41	10/10/2006	FINISHED INITIAL DATA CAPTURE			
40	09/08/2006	EXPORT TO INITIAL DATA CAPTURE			
39	08/31/2006	MAIL NOTICE OF ALLOWANCE			
38	08/29/2006	ISSUE REVISION COMPLETED			
37	08/29/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	08/25/2006	NOTICE OF ALLOWABILITY			
35	08/17/2006	DATE FORWARDED TO EXAMINER			
34	08/07/2006	RESPONSE AFTER NON-FINAL ACTION		33	32
33	08/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	04/05/2006	MAIL NON-FINAL REJECTION	280		-1
31	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
30	03/05/2006	NON-FINAL REJECTION			
29	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	07/20/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
27	07/19/2005	CORRESPONDENCE ADDRESS CHANGE			
26	07/19/2005	CORRESPONDENCE ADDRESS CHANGE			
25	07/19/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
24	05/06/2005	PETITION ENTERED			
23	03/31/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	03/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	10/26/2004	APPLICATION RETURN FROM OIPE			

20	10/26/2004	APPLICATION RETURN TO OIPE			
19	10/26/2004	APPLICATION DISPATCHED FROM OIPE			
18	10/26/2004	APPLICATION IS NOW COMPLETE			
17	10/14/2004	ADDITIONAL APPLICATION FILING FEES			
16	10/14/2004	SMALL ENTITY STATEMENT (37 CFR 1.27)			
15	10/14/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
14	10/14/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
13	07/08/2004	CORRECTED PAPER			
5	06/03/2004	CLEARED BY L&R (LARS)			
4	05/27/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/27/2004	CASE CLASSIFIED BY OIPE			
2	05/06/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/29/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-04

Paper No: __

DAVID A CHERRY ESQ
WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA PA 19103

COPY MAILED

SEP 3 0 2004

OFFICE OF PETITIONS

In re Application of
Gilbert :
Application No. 10/834,466 : DECISION ON PETITION
Filing Date: 18 August, 2004
Attorney Docket No. CARP-0114 :

This is a decision on the petition filed on 18 August, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 18 August, 2004, for the application, including Fig(s).8 and 9 as described in the specification.

The petition is **GRANTED**.

The Revocation/Power of Attorney filed is acknowledged and apparently already has been entered.

BACKGROUND

This nonprovisional application was deposited on 29 April, 2004.

On 6 July, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 6 July Notice) and indicated that, while a filing date had been granted, it appeared, *inter alia*, that Fig. 8 and 9 as described in the specification were omitted from the application.

The 6 July 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 30 June Notice and accept the application as filed.

In the 18 August, 2004, filing, Petitioner elected to submit the two drawings, Fig(s). 8 and 9, and accept the filing date of those drawings as the filing date of the application.

Since the filing of the petition, the application apparently has been assigned and a Revocation/Power of Attorney has been filed. Thus the mailing address as to the instant petition is different than that at the filing of the petition.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 18 August, 2004, using:

1. pages 1 - 42 (Specification, Claims), 5 sheets of drawings (Fig(s). 1 - 7 and 10 - 11)) deposited on 29 April, 2004; and

2. One page of Abstract (misnumbered also as Page 42) and Fig(s). 8 and 9 as described in the specification, deposited on 18 August, 2004;

3. with direction to OIPE to correct Office records to reflect that 43 pages of specification (description, claims and abstract) and 7 sheets of drawings were present on filing on 18 August, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 18 August, 2004, reflecting therein that 43 pages of specification (description, claims and abstract) and 7 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Delphi Technologies, Inc.
Legal Staff-Intellectual Property
M/C 480-410-202
P. O. Box 5052
Troy MI 48007-5052

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Christopher M. Thrush :
Application No.: 10/834486 : DECISION ON
Filing or 371(c) Date: 04/29/2004 : PETITION
Title of Invention: :
BRAKE FORCE SENSOR :

This is a decision in response to the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed March 12, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed October 27, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on January 28, 2007. A Notice of Abandonment was mailed February 21, 2007.

The present petition

Applicant files the present petition and asserts that timely payment of the issue fee was tendered to this Office on January 22, 2007. In support of this assertion, Applicant files a copy of the Issue Fee Transmittal Form; copy an Express Mail Mailing label; a copy of a Pickup Service Statement for Express Mail, along with statements from Susan Grisham and Kathy Vigne attesting to the timely mailing of the response.

Analysis and conclusion

A review of the Issue Fee Transmittal Form reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the form was mailed to this Office on January 22, 2006. The Certificate of Mailing was executed by Susan Grisham.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The issue fee has been charged to Applicant's deposit account.

The application will be 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
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

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

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Barsun, et al. : DECISION GRANTING
Application No. 10/834,517 : PETITION
Filed: April 28, 2004 :
Attorney Docket No. 200313804-1 :

This is a decision on the petition under 37 CFR 1.10(c), filed December 2, 2004, requesting that the above-identified application be accorded a filing date of April 28, 2004, rather than the presently accorded filing date of April 29, 2004.

Petitioners allege that the application was deposited in Express Mail service on April 28, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV428358332US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 28, 2004.

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

Accordingly, the application is entitled to a filing date of April 28, 2004.

Since the instant petition has been granted, the petition fee will be refunded to deposit account no. 08-2025.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of April 28, 2004 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2800 for examination *in due course*.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 29, 2009

TO SPE OF : ART UNIT 2877 - Gregory J. Toatley

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834,537 Patent No.: 7,106,442 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: The correction is approved.

/Gregory J. Toatley, Jr./ SPE AU 2877

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : Feb. 6, 2006

TO SPE OF : ART UNIT 1638 (Keith Robinson)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,982,370

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.
Please see Amdt. (Dec, 04) and amended title – palm does not reflect. Your denial or approval decision is needed below.

sp ST STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

Applicants sent in the wrong claim set. Additionally Applicant should send in a declaration stating if is the same plants (new name = plant of old name). Applicant may wish to consider filing a reissue as opposed to a Cert. of correction as a new search is required.

Anne Marie Grunberg — **SPE**

1638 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

MAILED

NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas B. Bolt	:	
Application No. 10/834,550	:	DECISION ON PETITION
Filed: April 28, 2004	:	TO WITHDRAW
Attorney Docket No. 249212024900	:	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 25, 2009.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on May 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **QUANTUM C/O WAGNER BLECHER LLP**
123 Westridge Drive
Watsonville, CA 95076

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

BEYER WEAVER & THOMAS LLP
P O BOX 70250
OAKLAND, CA 94612-0250

COPY MAILED

NOV 3 0 2006

OFFICE OF PETITIONS

In re Application of :
Gen Hashiguchi et al :
Application No. 10/834,564 : DECISION ON PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YMUCP003 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/JP01/10443, filed November 29, 2001, as set forth in the accompanying amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for benefit of 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, has been mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. 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 3652 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BEYER WEAVER & THOMAS LLP
P O BOX 70250
OAKLAND, CA 94612-0250

COPY MAILED

NOV 3 0 2006

OFFICE OF PETITIONS

In re Application of :
Gen Hashiguchi et al :
Application No. 10/834,564 : DECISION ON PETITION
Filed: April 28, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YMUCP003 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/JP01/10443, filed November 29, 2001, as set forth in the accompanying amendment.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for benefit of 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/16/09 **Paper No.:** —

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/834594 Patent No.: 7585292 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

Radka SPE AU3761

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 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Barry G. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7585292	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **989** 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

DAC / IFW

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

OIPE IAP76
JUN 09 2008
PATENT & TRADEMARK OFFICE

JUN 04 2008

Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300

In re application of Herbert Naumann	:	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/834,599 Filed: April 29, 2004	:	

For: **VALVE-STROKE CONTROLS**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee 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.

The application is being forwarded to the examiner for action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700
571-272-3750

rt/ 5/30/08

UNITED STATES PATENT AND TRADEMARK OFFICE

12 AUG 2008

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:	
NAUMANN, Herbert	:	
Application No.: 10/834,599	:	
Filed: 29 October 2004	:	
Attorney Docket No.: N/A	:	DECISION ON PETITION
For: VALVE-STROKE CONTROLS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 30 April 2008, 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/EP02/11936, filed 25 October 2002, set forth in the amendment submitted concurrently with the petition under 37 CFR 178(a)(3) and on the petition under 37 CFR 1.182 filed 21 July 2008 to expedite processing of the petition filed 30 April 2008.

The instant decision decides the petition filed 30 April 2008. Accordingly, the petition under 37 CFR 1.182 is **DISMISSED** as moot.

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

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

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 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 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 PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 3748 for appropriate action on the amendment filed 30 April 2008, including consideration of applicant's entitlement to claim benefit under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/EP02/11936, filed 25 October 2002.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

cUNITED 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

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

COPY MAILED

SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Lo :
Filed: April 29, 2004 : ON PETITION
Application No. 10/834,618 :
Atty. Dkt. No.: CM05873G :

This decision in response to the "PETITION FOR GRANT OF FILING DATE UNDER MPEP 601.01(f)," filed August 5, 2004 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed July 7, 2004, requesting that the instant application be accorded a filing date of April 29, 2004.

The application was filed April 29, 2004. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required under 35 USC 113.

In response, the present petition was filed wherein petitioner argues that the application as deposited included 2 sheets of formal drawings. Petitioner has included as proof of mailing and proof of receipt of the 2 sheets of formal drawings a return postcard date stamped by the Office on April 29, 2004. A copy of the original drawing sheets purportedly filed with the application on April 29, 2004 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the Notice is hereby **WITHDRAWN** and the petition to accord the application a filing date of April 29, 2004 is **GRANTED**.

Since the original 2 sheets of formal drawings cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted petition fee of $130.00 has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 29, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Corey James Lawson	: DECISION ON REQUEST FOR
Patent Number	: 7639145	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/834,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1644** 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

PATTERSON THUENTE SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

In re Application of
Zbigniew Tokarski et al
Application No. 10/834,656
Filed: April 29, 2004
Attorney Docket No. 3216.68US01

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1756 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/834,656	04/29/2004	1756	1230	3216.68US01	36	5

CONFIRMATION NO. 7012

CORRECTED FILING RECEIPT

OC000000022899347

OC000000022899347

24113
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Date Mailed: 03/14/2007

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)

Zbigniew Tokarski, Woodbury, MN;
Nusrallah Jubran, St. Paul, MN;
Vytautas Getautis, Kaunas, LITHUANIA;
Vygintas Jankauskas, Vilnius, LITHUANIA;
Tadas Malinauskas, Kaunas, LITHUANIA;
Edmundas Montrimas, Vilnius, LITHUANIA;

Power of Attorney:

John Thuente--29595
James Patterson--30673
Jose Jimenez--31113
Bradley Pedersen--32432
Douglas Christensen--35480
William Alexander--37269
Michael Bondi--39616
Peter Dardi--39650
Kimberly Baxter--40504
Eric Chadwick--41664

Domestic Priority data as claimed by applicant

This application is a CIP of 10/814,938 03/31/2004

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/834,656

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Azine-based charge transport materials having two reactive rings

Preliminary Class

430

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DLA PIPER LLP US
P. O. BOX 2758
RESTON VA 20195

COPY MAILED

APR 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Tokarski et al.	:	LETTER REGARDING
Application No. 10/834,656	:	PATENT TERM ADJUSTMENT
Filed: April 29, 2004	:	
Atty Docket No. 3216.68US01	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT PURSUANT TO MPEP § 2733," filed on February 20, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is four hundred two-seven (427) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 427 days.

On December 26, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is six hundred eighty-six (686) days. The instant request for review of patent term adjustment was timely filed.[1]

[1] PALM records indicate that the issue fee was paid on February 20, 2008.

Applicants state that the PTA calculation appears to be longer than expected. Specifically, applicants state that the filing of a supplemental Information Disclosure Statement (IDS) filed on August 3, 2007, after filing of a reply to a non-final office action, may have been omitted from the PTA calculation.

Upon review, applicants are correct to an extent. On December 11, 2006, a response to the non-final Office action mailed on September 5, 2006, was filed, four (4) months and six (6) days after the mailing of the non-final Office action. On March 16, 2007, an Office action was issued suspending prosecution. On August 3, 2007, the IDS was filed.

The Office communication mailed on March 16, 2007 is an action within the meaning of 35 U.S.C. 132, which properly stops the clock for determining examination delay pursuant to 37 CFR 1.702(a)(2). This Office communication was mailed in response to and within four months of the filing of applicants' response filed December 11, 2006. Accordingly, entry of a period of delay of 259 days for the mailing of the notice of allowance four (4) months and 259 days after the filing of applicant's response on December 11, 2006, is not warranted and will be removed.

As the IDS filed on August 3, 2007, was filed subsequent to the mailing of the Office communication mailed on March 16, 2007, the IDS is not considered a supplemental reply within the meaning of 37 CFR 1.704(c)(8)(to the response filed December 11, 2006). Moreover, the IDS is not a reply to the Office communication mailed on March 16, 2007. The IDS was not filed under circumstances warranting entry of a period of reduction pursuant to 37 CFR 1.704(c)(8) or 1.704(b). Accordingly, no further period of reduction is being entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred twenty-seven (427) days** (433 days of PTO delay, reduced by 6 days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 10/834656			
Application Filing Date:	04/29/2004	PTO Delay (PTO):	692
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	6
Post-Issue Petitions:	0	Total PTA (days):	427
PTO Delay Adjustment:	-259		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	04/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		259	
41	12/26/2007	MAIL NOTICE OF ALLOWANCE	259		18
40	12/12/2007	ISSUE REVISION COMPLETED			
39	12/12/2007	DOCUMENT VERIFICATION			
38	12/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/10/2007	NOTICE OF ALLOWABILITY			
36	08/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	10/08/2007	DATE FORWARDED TO EXAMINER			
34	10/08/2007	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
33	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	08/03/2007	REFERENCE CAPTURE ON IDS			
31	08/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	08/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	06/28/2007	PG-PUB ISSUE NOTIFICATION			
27	03/16/2007	MAIL LETTER OF SUSPENSION			
26	03/16/2007	MAIL-PETITION DECISION - GRANTED			
25	12/08/2006	PETITION ENTERED			
24	02/28/2007	LETTER OF SUSPENSION - EXAMINER INITIATED			
23	02/23/2007	PARALEGAL TD ACCEPTED			
22	12/11/2006	TERMINAL DISCLAIMER FILED		0	18
20	12/11/2006	TERMINAL DISCLAIMER FILED			
19	12/22/2006	DATE FORWARDED TO EXAMINER			

18	12/11/2006	RESPONSE AFTER NON-FINAL ACTION		6	17
17	09/05/2006	MAIL NON-FINAL REJECTION	433		-1
16	08/31/2006	NON-FINAL REJECTION			
15	09/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
13.7	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	09/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	04/29/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
8	07/07/2004	APPLICATION RETURN FROM OIPE			
7	07/07/2004	APPLICATION RETURN TO OIPE			
6	07/07/2004	APPLICATION DISPATCHED FROM OIPE			
5	07/07/2004	APPLICATION IS NOW COMPLETE			
4	05/28/2004	CLEARED BY OIPE CSR			
3	05/28/2004	CASE CLASSIFIED BY OIPE			
2	05/06/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/29/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Chas Gastineau, David Hamley, Garth :
Waldron, Idowu Olorunfemi, Mario Spivak, :
Robert Camp, Tom Knoll, Todd Kolchinsey, :
and Winnie Lin :
Application No. 10/834,664 : DECISION ON PETITION UNDER
Filed: April 29, 2004 : 37 C.F.R. §1.47(A)
Attorney Docket No. FMC 1467 PUS :
(81078842) :
Title: METHOD AND SYSTEM FOR :
ASSESSING THE RISK OF A VEHICLE :
DEALERSHIP DEFAULTING ON A :
FINANCIAL OBLIGATION :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 29, 2004, concurrently with the filing of the above-identified application.

On April 29, 2004, the application was deposited, identifying Chas Gastineau, David Hamley, Garth Waldron, Idowu Olorunfemi, Mario Spivak, Robert Camp, Tom Knoll, Todd Kolchinsey, and Winnie Lin as joint inventors. The application was deposited with a declaration which had

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.

been executed by each of the joint inventors, save Mr. Hamley. Petitioner has also included the petition fee, copies of e-mails, a letter, the last known address of the non-signing inventor, the result of an internet search, and a statement of facts.

Petitioner has met requirements (1) and (3) – (4) above. Requirement (2) does not apply.

Regarding the fifth requirement above, petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by inventor Knoll[2].

For this reason, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiency noted above, except that the reply may include an acceptable oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

---

2 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of
Chas Gastineau, David Hamley, Garth Waldron, Idowu Olorunfemi, Mario Spivak, Robert Camp, Tom Knoll, Todd Kolchinsey, and Winnie Lin
Application No. 10/834,664
Filed: April 29, 2004
Attorney Docket No. FMC 1467 PUS (81078842)
Title: METHOD AND SYSTEM FOR ASSESSING THE RISK OF A VEHICLE DEALERSHIP DEFAULTING ON A FINANCIAL OBLIGATION

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 13, 2004.

On April 29, 2004, the application was deposited, identifying Chas Gastineau, David Hamley, Garth Waldron, Idowu Olorunfemi, Mario Spivak, Robert Camp, Tom Knoll, Todd Kolchinsey,

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

and Winnie Lin as joint inventors. The application was deposited with a declaration which had been executed by each of the joint inventors, save Mr. Hamley. Petitioner also included the original petition, the petition fee, copies of e-mails, a letter, the last known address of the non-signing inventor, the result of an internet search, and a statement of facts.

The original petition was dismissed via the mailing of a decision on August 11, 2004, for failure to submit a declaration which complies with 37 CFR §1.63

With the renewed petition, Petitioner has corrected this deficiency. As such, the petition is **GRANTED**.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David Hamley
10557 Country Lane
Wexford, PA 15090

In re Application of
Chas Gastineau, David Hamley, Garth Waldron,
Idowu Olorunfemi, Mario Spivak, Robert Camp,
Tom Knoll, Todd Kolchinsey, and Winnie Lin
Application No. 10/834,664
Filed: April 29, 2004
Attorney Docket No. FMC 1467 PUS (81078842)
Title: METHOD AND SYSTEM FOR ASSESSING THE RISK OF A VEHICLE DEALERSHIP DEFAULTING ON A FINANCIAL OBLIGATION

COPY MAILED

OCT 25 2004

LETTER OFFICE OF PETITIONS

Dear Mr. Hamley:

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, 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 the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

cc: BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

STEPHEN MICHAEL PATTON
P O BOX 381454
GERMANTOWN, TN 38183

In re Application of :
William A. Wake, et al. :
Application No. 10/834,676 : DECISION ON REQUEST
Filed: April 29, 2004 : TO WITHDRAW
Attorney Docket No. 13923 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed January 17, 2006.

The request is **APPROVED**.

A review of the file record indicates that Stephen Michael Patton: (1) does not appear to have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Stephen Michael Patton has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272- 32204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND, PA 17557

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

AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK TX 79401

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Don L. Adams	:	
Application No. 10/834,692	:	ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. DA2004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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 Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK TX 79401

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Don L. Adams :
Application No. 10/834,692 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. DA2004 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 22, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 2005. The Notice of Abandonment was mailed August 11, 2006.

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

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

The application file is being referred to Technology Center AU 3661 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Buchanan Ingersoll PC
1835 Market Street, 14th Floor
Philadelphia, PA 19103-2985

MAILED

DEC 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Todd Vore et al
Application No. 10/834,709
Filed: April 29, 2004
For: MATCHING ACCESSORIES AND METHOD OF COORDINATING AND SELLING SAME

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

This is in response to the petition filed on August 9, 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.

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:12/2/04

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

STEVEN L. PERMUT
REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY MI 48099-4390

COPY MAILED

OCT 0 4 2007

OFFICE OF PETITIONS

In re Patent No. 7066794 :
Issue Date: 06/27/2006 :
Application No. 10/834720 : NOTICE
Filed: 04/29/2004 :
Attorney Docket No. 1784.3009.001 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 17 August, 2007.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
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

ADAM EVANS PA
2180 TWO WACHOVIA CENTER
301 S TRYON ST
CHARLOTTE NC 28282

COPY MAILED

NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Charles Baloga, Adrian Simms:
Application No. 10/834,724 : DECISION ACCORDING STATUS
Filed: April 29, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 3144/4 :

This is in response to petition under 37 CFR 1.47(b), filed September 7, 2004.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on April 29, 2004, without an executed oath or declaration. Accordingly, on July 8, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(b) and paid both the petition fee and the surcharge for late filing of the declaration. Accompanying the petition was a declaration signed by Gary Papp, Vice President of Britax Child Saftey Inc., listing the name, citizenship, and residence of nonsigning inventors Thomas Charles Baloga and Adrian Simms.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; and (6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

On petition, Rule 47 applicant has established that Baloga and Simms were forwarded the application papers and did not return an executed declaration and made an express oral refusal to sign, respectively.

While Rule 47 applicant did not provide a statement of the last known addresses of the nonsigning inventors, the last known addresses are presumed to be those listed on the declaration.

The petition filed on January 21, 2004 has been reviewed and found to be in compliance with 37 CFR 1.47(b). The declaration filed with the petition has been determined to be in compliance with 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

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

The application file is being forwarded to Group Art Unit 3636 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain
Application No. 10/834,760
Filed: April 28, 2004
Attorney Docket Number: 7293-108
Title: METHOD AND APPARATUS FOR MOTION ADAPTIVE DEINTERLACING

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, 2], filed November 15, 2004.

The above-identified application was filed on April 28, 2004, identifying G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain as joint inventors. No oath or declaration was submitted on filing. On July 8, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed oath or declaration would be required along with the surcharge associated with the late filing of the same. The

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 Petitioner has not stated whether she is filing under the "refuses to sign" or "cannot be reached" standard. However, since Petitioner has made no mention of any search which might have been done for the non-signing joint inventor, the Office will assume that Petitioner is asserting that the non-signing inventor has refused to sign.

notice set a two-month period for response, and further indicated that a substitute specification and replacement drawings would be required.

On November 15, 2004, the instant petition was filed, along with a three-month extension of time to make timely this response[3]. Petitioner has included the petition fee, the surcharge, the last known address of the non-signing inventor, a substitute specification, replacement drawings, and a declaration which has been executed by the latter three joint inventors.

Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement, Petitioner has not shown that a complete copy of the application papers was sent to the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration[4]. On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[5].

As such, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiency. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

---

3 Petitioner has included a two-month extension of time, when a three-month extension of time was required. As such, the deficiency has been charged to her Deposit Account, as authorized in the petition.

4 See MPEP 409.03(d).

5 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Any renewed petition may be submitted by mail[6], hand-delivery[7], or facsimile[8].

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

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

8 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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

COPY MAILED

MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain
Application No. 10/834,760
Filed: April 28, 2004
Attorney Docket Number: 7293-108
Title: METHOD AND APPARATUS FOR MOTION ADAPTIVE DEINTERLACING

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed March 21, 2005.

The above-identified application was filed on April 28, 2004, identifying G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain as joint inventors. No oath or declaration was submitted on filing. On July 8, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed oath or declaration would be required along with the surcharge associated with the late filing of the same. The notice set a two-month period for response, and further indicated that a substitute specification and replacement drawings would be required.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was filed on November 15, 2004, and was dismissed via the mailing of a decision on March 2, 2005, for failure to establish that a complete copy of the application papers was sent to the non-signing inventor.

With this submission, Petitioner has submitted a petition that is not associated with the instant application. The transmittal letter which was included with this submission contains the serial number 10/834,460 along with the correct attorney docket number and the correct filing date, however the incorrect inventors are listed. The petition contains the wrong inventors, the wrong serial number, the wrong filing date, and the correct attorney docket number.

As such, it is not clear what Petitioner is attempting to achieve with this submission, and the renewed petition under 37 C.F.R. §1.47(a) is again **DISMISSED**.

Petitioner is given a period of **ONE MONTH** to respond. **This time period is not extendable**. Any reply should be entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. This is not a final agency action within the meaning of 5 U.S.C 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.
Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The application file will be retained in the Office of Petitions for two (2) months.

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

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain
Application No. 10/834,760
Filed: April 28, 2004
Attorney Docket Number: 7293-108
Title: METHOD AND APPARATUS FOR MOTION ADAPTIVE DEINTERLACING

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed April 14, 2005.

The above-identified application was filed on April 28, 2004, identifying G. Finn Wredenhagen, Gary Cheng, Soo Chang Jang, and Lance Greggain as joint inventors. No oath or declaration was submitted on filing. On July 8, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed oath or declaration would be required along with the surcharge associated with the late filing of the same. The notice set a two-month period for response, and further indicated that a substitute specification and replacement drawings would be required.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was filed on November 15, 2004, and was dismissed via the mailing of a decision on March 2, 2005, for failure to establish that a complete copy of the application papers was sent to the non-signing inventor.

The renewed petition was filed on March 21, 2005 and was dismissed via the mailing of a decision on March 31, 2005, as the renewed petition was not associated with the instant application.

On April 28, 2004, the present application was deposited with a transmittal sheet which indicated that this application is a continuation of prior-filed application number 09/948,721, which issued as patent number 6,757,022 on June 29, 2004. It is noted that the current application and the patent share a common inventorship.

With this second renewed petition, Petitioner has submitted a copy of a declaration associated with application number 09/948,721, which has been executed by each of the four joint inventors.

37 C.F.R. §1.63(d) sets forth, in part:

(1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:
(i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;
(ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;
(iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and
(iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

The parent application contained a declaration, the continuation application was filed by all of the inventors named in the parent, and a copy of the executed declaration filed in the parent, showing a signature for each of the four joint inventors, has been submitted for the continuation application on second renewed petition. Finally, since this is a continuation application, it is reasonable for the undersigned to assume that the specification and drawings filed in the divisional application contain no matter that would have been new matter in the prior application.

As such, a newly executed oath or declaration is not required. Consequently, this second renewed petition is **DISMISSED AS MOOT**.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The application will be forwarded to Technology Center 2600 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP STRATEGIES
12 ½ WALL STREET
SUITE I
ASHEVILLE, NC 28801

COPY MAILED

MAY 01 2006

OFFICE OF PETITIONS

In re Application of :
Gordon Danby et al :
Application No. 10/834,771 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. FONPT08C2

This is a decision on the petition filed, April 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 November 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2832 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
www.uspto.gov

Paper No.

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

COPY MAILED
JUN 26 2006
OFFICE OF PETITIONS

In re Application of :
Jim Kerekes : DECISION ON PETITION
Application No. 10/834,808 :
Filed: April 29, 2004 :
Attorney Docket No. :
70015990-0037-007 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 18, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed November 2, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective February 3, 2006. 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. No terminal disclaimer is required.

Technology Center AU 2839 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed May 18, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Peter A. Benson :
Application No. 10/834,809 :
Filed: April 29, 2004 :
Attorney Docket No.: 2269-6104US (03-0919.00/U :

ON PETITION

This is a decision on the petition, filed September 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 21, 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 2891 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Peter A. Benson
Application No. : 10/834,809
Filed : April 29, 2004

The above-identified application has been assigned Patent No. 7,118,993 and an issue date of October 10, 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 10, 2006:

> "All reference to Patent No. 7,118,993 to PETER A. BENSON of IDAHO for WAFER EDGE RING STRUCTURES AND METHODS OF FORMATION appearing in the Official Gazette of October 10, 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

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter A. Benson :
Application No. 10/834,809 :
Filed: April 29, 2004 :
Attorney Docket No. 2269-6104US (03-0919.00/U :

This is a decision on the petition, filed March 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2891 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).

MAR 2 5 2005
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Betsy WEISSMAN et al.
Appl./Serial No.:	10/834,813
Filed:	April 29, 2004
TC/A.U.:	Unknown 1774
Examiner:	Unknown Shewareged
Docket No.:	1168.1001
Title:	STATIC CLING GIFT LABELS FOR CONTAINERS AND METHOD FOR DEMARCATING AND DECORATING CONTAINERS

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102

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

March 22, 2005

Sir:

Pursuant to 37 C.F.R. §1.102 and in accordance with section 708.02(II) of the Manual of Patent Examining Procedure (MPEP), Applicants hereby respectfully submit a Petition to Make Special for the above identified patent application.

I hereby certify that this correspondence and/or fee is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on March 22, 2005.

STEINBERG & RASKIN, P.C.

BY: Annette McPherson

03/28/2005 DEMHAMU1 00000006 10834813
01 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino

Richard Crispino
Special Program Examiner
TC 1700
MAY 11 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,512,246
Issued: March 31, 2009
Application No. 10/834,817
Filed: April 28, 2004
Attorney Docket No. 2552-000066

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION UNDER RULE 1.705" filed May 29, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred sixty-nine (969) days to one thousand six hundred seventy-two (1672) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into US Patent No. 7,512,246 with a patent term adjustment of 969 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 1672 days, which includes 703 days of patent term adjustment due to exceeding three year pendency and 969 days due to USPTO delay in prosecution."

The 703-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 28, 2004, and the patent having been issued on March 31, 2009, three years and 703 days later. Patentees assert that in addition to this 703-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 969 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (703 days) and the period of Examination Delay (969 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1672 days, which is the sum of the period of Three Year Delay (703 days) and the period of Examination Delay (969 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1672 days (703 + 969 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on March 31, 2009, the application was pending three years and 703 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 969 days is correct. At issue is whether patentees should accrue 703 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 969 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 703 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June

21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, April 28, 2004, to the date the patent issued on March 31, 2009. Prior to the issuance of the patent, 969 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 703 days for Office delay in issuing the patent overlap with the 969 days of Office delay. During that time, the issuance of the patent was delayed by 969 days, not 703 + 969 days. The Office took 14 months and 969 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 969 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 703 days. The Office did not delay 969 days and then an additional 703 days. Accordingly, 969 days of patent term adjustment (not 969 and 703 days) was properly entered since the period of delay of 703 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 969 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 969

---

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

days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 703 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 969 days of patent term adjustment.

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

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

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

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

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,512,246
Issued: March 31, 2009
Application No. 10/834,817
Filed: April 28, 2004
Attorney Docket No. 2552-000066

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION filed on September 3, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 969 days to 1372 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent, considering the 300 days of overlap, is adjusted by one thousand three hundred seventy-two (1372) days and is **GRANTED**.

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 three hundred seventy-two (1372)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,512,246 B2

DATED : March 31, 2009

INVENTOR(S) : Nishitani 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 (969) days

Delete the phrase "by 969 days" and insert – by 1372 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 17:41:05

PTA Calculations for Application: 10/834817			
Application Filing Date:	04/28/2004	PTO Delay (PTO):	969
Issue Date of Patent:	03/31/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1372
PTO Delay Adjustment:	403		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	403		
49.5	03/11/2009	PTA 36 MONTHS			
49	03/31/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
48	03/02/2009	EXPORT TO FINAL DATA CAPTURE			
47	02/23/2009	FINISHED INITIAL DATA CAPTURE			
46	02/26/2009	DISPATCH TO FDC			
45	02/24/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	02/19/2009	ISSUE FEE PAYMENT VERIFIED			
43	02/19/2009	ISSUE FEE PAYMENT RECEIVED			
42	01/09/2009	EXPORT TO INITIAL DATA CAPTURE			
40	01/05/2009	MAIL NOTICE OF ALLOWANCE			
39	12/30/2008	ISSUE REVISION COMPLETED			
38	12/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	12/30/2008	DOCUMENT VERIFICATION			
36	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
35	12/22/2008	NOTICE OF ALLOWABILITY			
31	10/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
30	10/08/2008	DATE FORWARDED TO EXAMINER			
29	09/15/2008	RESPONSE AFTER NON-FINAL ACTION			
28	06/27/2008	MAIL NON-FINAL REJECTION			
27	06/23/2008	NON-FINAL REJECTION			
26	04/28/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	04/18/2008	DATE FORWARDED TO EXAMINER			

24	03/21/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
23	02/22/2008	MAIL RESTRICTION REQUIREMENT	969		-1
22	02/19/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
20	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
19	10/15/2007	FLAGGED FOR 5/25			
18	08/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	03/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/28/2004	REFERENCE CAPTURE ON IDS			
12	04/28/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11.7	04/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	07/09/2004	APPLICATION RETURN FROM OIPE			
8	07/09/2004	APPLICATION RETURN TO OIPE			
7	07/08/2004	APPLICATION DISPATCHED FROM OIPE			
6	07/09/2004	APPLICATION IS NOW COMPLETE			
5	06/08/2004	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	05/08/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/28/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

MCFADDEN, FINCHAM
225 METCALFE STREET
SUITE 600
OTTAWA, ON K2P 1P9 CA CANADA

COPY MAILED

DEC 27 2007

OFFICE OF PETITIONS

In re Application of
Jed Smith
Application No. 10/834,831
Filed: April 30, 2004
Attorney Docket No. 6941-1A

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 30, 2007.

The request is **APPROVED**.

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

The request was signed by Martin Szczepaniak on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the outstanding Office action mailed July 30, 2007.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JED SMITH
91 MAURICE BVEAUDOIN ST
GATINEAU, QUEBEC, J8P 2K1
CANADA

cc: MS DONNA QUACKENBUSH
91 MAURICE BEAUDOIN
GATINEAU OC J8P 2K1
CANADA

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
10/834,831	04/30/2004	Jed Smith	6941-1A

CONFIRMATION NO. 7181

POWER OF ATTORNEY NOTICE

McFadden, Fincham
Suite 606
225 Metcalfe Street
Ottawa, ON K2P 1P9
CANADA

OC000000027362573

Date Mailed: 12/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/30/2007.

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

/amwise/

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

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

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

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of NAKAMURA et al
Application No.: 10/834,837
Filing Date: April 30, 2004
For: FILE SYSTEM PREVENTING FILE FRAGMENTATION

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

This is a decision on the petition filed December 16, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed December 16, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
T. KUSAMA, et al.
Application No. 10/834,839
Filed: April 30, 2004
For: METHOD FOR REARRANGING LOGICAL VOLUME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 26 September 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 26 September 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of SAKAGUCHI et al	:	
Application No.: 10/834,866	:	DECISION ON PETITION
Filing Date: April 30, 2004	:	FOR ACCELERATED
For: FILE MANAGEMENT METHOD IN A	:	EXAMINATION UNDER
DISTRIBUTED STORAGE SYSTEM	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed October 26, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed October 26, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 27 2005

Technology Center 2100

In re Application of: UCHIUMI
Application No. 10/834,873
Filed: April 30, 2004
For: STORAGE CONTROL SYSTEM
DECISION ON PETITION

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

This is a response to the petition filed 23 September 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 23 September 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies several numbered features for each independent claim. There is also a statement for each of the references deemed most closely related that the reference fails to teach or suggest the numbered features recited in the independent claims. However, the numbered features recite so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references. Also, the discussion of the references is not sufficiently detailed. The discussion of each reference is only a few sentences long and gives only a cursory description and fails to point to specific sections of the reference (e.g., column and line numbers or paragraph numbers).

Also, on page 5 of the petition, it is stated that "[t]o the extent applicable to the present Petition, Applicants submit that although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." It is not clear if the statement is applicable to the present petition or not. The language "to the extent applicable to the present Petition" gives no indication as to whether the statement actually applies in the instant application or not. Rather, this language is generic to practically any petition of this type and is not specific to the instant application. If the combination of elements referred to do in fact constitute a substantial portion of the claim, then this should be stated. Also, if the combination of elements is necessary because, e.g., there is a necessary interoperability among these elements, then this too should be stated and the reasons for the, e.g., necessary interoperability, discussed.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
K. UCHIUMI, et al.
Application No. 10/834,873
Filed: April 30, 2004
For: STORAGE CONTROL SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 27 February 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 23 September 2005 and 27 February 2006 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
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

C. IRVIN McCLELLAND
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

NOV 22 2006

OFFICE OF PETITIONS

In re Application of :
Kuniko Jimi et al :
Application No. 10/834,893 : DECISION GRANTING PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 252679US6 :

This is a decision on the petition, filed November 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 October 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\834893.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Huffman Law Group, P.C.
1832 N. Cascade, Ave.
Colorado Springs CO 80907-7449

COPY MAILED

AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Bertram et al. :
Application No. 10/834,900 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. CNTR.2221 :

This is a decision on the Requests for Corrected Filing Receipt filed on May 11, 2004, and December 9, 2004, which will be treated as a petition under 37 CFR 1.10, requesting that the USPTO accord the above-identified application a filing date of April 28, 2004, rather than the presently accorded filing date of April 29, 2004.[1] Additionally, this is in response to applicants' request to correct the Domestic Priority data to claim the benefit of U.S. Provisional Application No. 60/472,147, filed on April 28, 2003.

Applicants assert they deposited the above-identified application with the USPS using "Express Mail Service" on April 28, 2004. In support of the assertion, the petition is accompanied by a United States Postal Service Track & Confirm receipt, indicating that the USPS accepted a package, bearing Express Mail label No. EO001791263US, on April 28, 2004, at 10:00 am, in Colorado Springs Colorado 80907. Applicants placed the same Express Mail label number on the original application papers located in the official file.

Accordingly, the petition is **granted**. The application will be accorded a filing date of April 28, 2004.

In view of the satisfactory showing that the application is entitled to a filing date of April 28, 2004, the Office will issue a corrected filing receipt reflecting the filing date of April 28, 2004, and the claim for priority to Provisional Application No. 60/472,147, filed on April 28, 2003.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to April 28, 2004, and to insert the claim for priority to Provisional Application No. 60/472,147, filed April 28, 2003. Additionally, the Office is directed to mail a corrected filing receipt, reflecting the corrections noted above.

[1] In the Requests for Corrected Receipt, applicants indicate that the correct filing date for the above-identified application is "4/28/2003." However, based on the supporting documentation submitted with the requests, it appears that applicants wish to correct the filing date to April 28, 2004. The Office believes that applicants made a typographical error, indicating the year 2003, instead of 2004. If this is an incorrect interpretation, applicants should contact this Office immediately.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter Stone
Apt. E14G
9000 Shore Rd.
Brooklyn NY 11209

COPY MAILED

DEC 12 2006

OFFICE OF PETITIONS

In re Application of :
Stone :
Application No. 10/834,947 : ON PETITION
Filed: April 30, 2004 :
PGPUB.: 10/14/2004 US20040201005A1 :

This application has come to the attention of this office by way of the petition under 37 CFR 1.183 filed July 7, 2006, on behalf of Stone Travis, the assignee of 98% of the entire interest herein, requesting suspension of the rules that require that an assignee must own the entire interest in order to intervene in prosecution to the exclusion of the named inventor.

The petition is dismissed.

Counsel for Stone Travis, and Stone Travis, are hereby placed on notice that, in the absence of a copy of a **final** decision from the highest court of competent jurisdiction that unequivocally awards 100% title herein to Stone Travis, or unequivocally finds that Stone Travis always owned, the entire right, title, and interest in this application, any further attempt to control the prosecution of this application will be regarded as correspondence filed for an improper purpose.

STATUTE AND REGULATION

35 U.S.C. § 152 states that:

> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided for in this title.

35 U.S.C. § 261 states in pertinent part:

> Subject to the provisions of this title, patents shall have the attributes of personal property. Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by

the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 3.54 states:

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 CFR 3.71 provides that:

(a) Patents — conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
(b) Patents — Assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.
(c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

37 CFR 3.73 provides that:

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.

(b) When an assignee seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Director. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee or by specifying (e.g. copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing

ownership must be signed by a party authorized to act on behalf of the assignee. Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

OPINION

Petitioner (Stone Travis) notes that it is the USPTO record assignee of 98% interest, but nevertheless seeks an extraordinary remedy in asking to intervene in the prosecution of this application to the exclusion of the named inventor under 37 CFR 3.73(b) and MPEP 324 as if it were the assignee of the entire interest. Petitioner further notes that *inter alia*, the ownership interest is the subject of ongoing litigation.

The named inventor has filed an opposition to the Stone Travis petition on November 19, 2006.

Under 37 CFR 3.71, the assignee of the *entire interest* may prosecute an application to the exclusion of the named inventors, or any previous assignee, and also revoke, or appoint, a power of attorney in an application or patent. Pursuant to 37 CFR 3.73(b), that putative assignee must present its showing consonant with 37 CFR 3.71 to the Office, either prior to, or concurrently with, the paper that requests the action. Accordingly, Stone Travis must establish that it is the current owner of the entire interest, as the owner–or even the equitable owner-- of only a part interest in an application does not have the sole right to control prosecution of the application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the entire interest in the application or patent. See Goldstein, 16 USPQ2d at 1964; MPEP 324.

However, as the record admittedly does not show that Stone Travis is the assignee of the 100% interest of the above-identified application within the meaning of the statutes and regulations, the requested relief(s) cannot be granted to Stone Travis, particularly given the petition filed in opposition by the named inventor. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v.

Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same). It follows that Stone Travis will not be permitted to unilaterally control the prosecution, appoint its own counsel, and change the correspondence address to the exclusion of the named inventor. Here, the named inventor retains his 2 % of the entire interest in this application and has not consented to the control of his property right by petitioner, nor has he given a power of attorney to petitioner's proposed counsel. Such is sufficient basis for the USPTO to refrain from further processing the papers filed on behalf of petitioner sole. The USPTO has long held that an inventor's right to control the prosecution of his application is normally not affected by less than an assignment of his entire interest. That policy has not wavered, even in light of an assertion by a third party that he is the owner in equity, see *e.g.*, In re Standard Adding Machine Co., 1910 Dec. Comm'r. Dec, 195 (Comm'r Pats. 1910), or, in the absence of a final court determination, by a party merely bringing suit to gain 100% title, see *e.g.*, Reiner v. McPhail, 1899 Dec. Comm'r Pats. 196 (Comm'r Pats. 1899).

It follows that petitioner has failed to establish its ownership of this application within the meaning of 37 CFR 3.73(b) and MPEP § 324. Based upon the showing of record in this application, Mr. Sone retains an inventor's right to take action herein. As such, and further in view of the fact that petitioner is not a named inventor in this application, petitioner must regarded--and so styles itself, as a third party with respect to this patent application.

Third party petitioner is, in essence, seeking to have the PTO make a determination from the proffered documentation, and settle its self created dispute as to the title of this application. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as noted above, the PTO will not permit itself to become embroiled in ownership disputes. If follows that, as the ownership issues pertaining to this application are before a court of competent jurisdiction, the PTO will take no further action in this matter unless and until the ownership issues are demonstrated to have been clearly, and finally, judicially resolved in favor of third party petitioner.

With respect to the request for extraordinary relief under 37 CFR 1.183:

For the reasons noted above, petitioner must be regarded as a third party with respect to this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. A third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991); Hallmark Cards, Inc. v. Lehman, 959 F. Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997). Since third party petitioner has indicated that petitioner is now involved in litigation regarding ownership of the above-identified application, then petitioner tacitly concedes that petitioner has an avenue for seeking relief with respect to the issues raised herein. Petitioner is reminded that a standard principle of statutory construction is that, absent legislative intent to the contrary,

when a statute provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n of R.R. Passengers, 414 U.S. 453, 458 (1974). In view of the above-noted litigation, it is not necessary, much less proper, to exercise 37 CFR 1.183 so as to fashion yet another remedy resolving the ownership issues for third party petitioner. That is, the named inventor has expressly retained a vested property right that can be canceled, revoked, or annulled only by proceedings that afford due process of law. See Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374, 377 (4th Cir. 1971). The USPTO may not permit *ex parte* proceedings before it to encroach upon such a property right. See Baker Hughes v. Kirk, 921 F.Supp. 801 (D.D.C. 1995).

While the USPTO does not engage in dual correspondence, on a one time basis, counsel who filed the petition for Stone, Travis is being supplied a courtesy copy of this decision.

This application is being referred to the Technology Center.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc:
David Leason
Darby & Darby
Post Office Box 5257
New York NY 10150-5257

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

RADER FISHMAN & GRAUER PLLC
1233 20TH STREET, N.W. SUITE 501
WASHINGTON, D.C. 20036

COPY MAILED

APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Shuzo Maruyama et al :
Application No. 10/834,968 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. NOG-0022

This is a decision on the petition filed, April 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1723 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
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED
DEC 16 2005
TECHNOLOGY CENTER 2100

In re Application of:
A. HARADA et al
Application No. 10/834,979
Filed: April 30, 2004
For: FAILOVER METHOD IN A REDUNDANT COMPUTER SYSTEM WITH STORAGE DEVICES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on July 12, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of July 12, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 19, 2007

RADER, FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

MAILED FROM
DIRECTORS OFFICE

OCT 24 2007

TECHNOLOGY CENTER 2800

In re Application of:
WATANABE, Makoto et al.
Application No. 10/834,981
Filed: April 30, 2004
Attorney Docket No. SON-3003
For: PHOTONIC CRYSTAL FIBER, LIGHT CONTROLLER, PROJECTOR, AND METHOD OF MANUFACTURING PHOTONIC CRYSTAL FIBER

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a Decision on the Petition filed July 30, 2007 to withdraw the final rejection mailed May 16, 2007, (see MPEP §706.07(c), which states that any question as to prematureness of a final rejection may only be reviewable by petition under 37 C.F.R. §1.181).

The petition is **granted**, since 35 USC 119 and 37 CFR 1.55 require submission of the certified translation of a priority document within pendency of the instant application.

This application is being forwarded to the examiner; the finality of the previous Office action will be withdrawn and a new action will be issued by the examiner.

Telephone inquires should be directed to Frank G. Font, Supervisory Patent Examiner, at (571) 272-2415.

Robert J. Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/26/07

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/834984** Patent No.: **7178502**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Thomas E Denion

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3748
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH, LIND & PONACK LLP
2033 K STREET NW
SUITE 800
WASHINGTON, DC 20006-1021

COPY MAILED

AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Mitsuo Ueda et al	:	
Application No. 10/834,988	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2004_0669A	:	

This is a decision on the petition, filed August 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 20, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\834988.wpd

---

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

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

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

MAILED
NOV - 8 2005
Technology Center 2100

In re Application of: YAMAGAMI
Application No. 10/834,989
Filed: April 30, 2004
For: STORAGE CONTROL SYSTEM AND COMTROL METHOD FOR SAME

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

This is a response to the petition filed 05 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/14/08

Paper No.: ___

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835017 Patent No: 7190571B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 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
www.uspto.gov

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

COPY MAILED

JAN 24 2007

OFFICE OF PETITIONS

In re Application of
TOYOMURA
Application No. 10/835,009
Patent No.: 7,078,997 B2
Filed: April 30, 2004
Attorney Docket No. 00862.023563

: LETTER REGARDING PTA

This decision is in response to Patentee's letter titled "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed on September 13, 2006requesting that the Office review the PTA determination at the time of the issue of the patent. Patentee requests the Office ro review the PTA determination because Patentee believe that too much time was awarded in the determination. The office thanks Patentee for his/her good faith and candor in bringing this matter to the attention of the Office.

Patentee's letter requesting reconsideration of PTA as being too much is **GRANTED.** The Office will adjust the PTA at the time of the issuance of the patent from a determination of 223 days to a determination of **201** days. In addition, the USPTO will *sua sponte* issue a certificate of correction to reflect this decision.

Patentee is given **THIRTY** days to reply to this decision. No extensions of time are granted under 37 CFR 1.136.

A review of the Office history reveals that patentee is correct in that the Office did err. The Office erred by failing to enter the IDS into the PALM record on June 27, 2006. Accordingly, the Office failed to reduce the Patent Term Adjustment under 37 CFR 1.704(c)(10) by a period of 22 days. [1] Accordingly, at the time of the issuance of the patent the Office delayed by a period of 270 days under 37 CFR 1.702(a)(1) and applicants delayed by a periods of 33, 14 and 22 days under 37 CFR 1.704(c)(10). The Office notes that none of the IDS submissions included an IDS waiver under 37 CFR 1.704(d) and therefore the reductions are not waived.

After mailing of this decision, the Office will forward this application to the Certificate of Correction branch for a prompt issuance of a certificate of correction, after the thirty day reply period has ended.

---

[1]The reduction began on June 27, 2006 (date of submission of IDS) and ended on date of patent grant, July 18, 2006.

Because the patentee is bringing this discrepancy to the attention of the Office, the Office will not assess any fee for applicants' good faith and candor.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Ad visor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy.

cc: ADJUSTED PAIR CALCULATION
DRAFT CERTIFICATE OF CORRECTION

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,078,997 B2
DATED	:	Jul. 18, 2006
INVENTOR(S)	:	Toyomura

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 (223) days

Delete the phrase "by 223 days" and insert – by 201 days--

Day : Wednesday

PALM INTRANET

Date: 1/24/2007
Time: 09:35:05

PTA Calculations for Application: 10/835009			
Application Filing Date:	04/30/2004	PTO Delay (PTO):	270
Issue Date of Patent:	07/18/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	47
Post-Issue Petitions:	0	Total PTA (days):	201
PTO Delay Adjustment:	-22		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	01/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		22	
46	07/18/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
45	06/06/2006	EXPORT TO FINAL DATA CAPTURE			
44	05/31/2006	FINISHED INITIAL DATA CAPTURE			
43	06/05/2006	DISPATCH TO FDC			
42	05/18/2006	WORKFLOW - QUERY REQUEST - FINISH			
41	05/15/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
40	05/12/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
39	04/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	03/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	04/21/2006	PUBS CASE REMAND TO TC			
36	04/28/2006	WORKFLOW - QUERY REQUEST - BEGIN			
35	04/28/2006	TC RETURN TO PUBS			
34	04/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		33	41
33	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	41
32	04/21/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
31	04/13/2006	ISSUE FEE PAYMENT VERIFIED			
30	04/13/2006	ISSUE FEE PAYMENT RECEIVED			
29	03/31/2006	EXPORT TO INITIAL DATA CAPTURE			
28	03/27/2006	MAIL NOTICE OF ALLOWANCE	270		-1

27	03/20/2006	ISSUE REVISION COMPLETED			
26	03/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	03/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/20/2006	NOTICE OF ALLOWABILITY			
23	04/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	12/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	07/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	04/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/09/2005	REFERENCE CAPTURE ON IDS			
16	02/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/14/2004	REFERENCE CAPTURE ON IDS			
14	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	07/30/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	07/30/2004	REFERENCE CAPTURE ON IDS			
11	07/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	08/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	07/02/2004	APPLICATION RETURN FROM OIPE			
7	07/02/2004	APPLICATION RETURN TO OIPE			
6	07/02/2004	APPLICATION DISPATCHED FROM OIPE			
5	07/02/2004	APPLICATION IS NOW COMPLETE			
4	06/02/2004	CLEARED BY OIPE CSR			
3	06/02/2004	CASE CLASSIFIED BY L&R			
2	05/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/30/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

JUL 22 2008

OFFICE OF PETITIONS

In re Application of :
Kaoru YAJIMA :
Application No. 10/835,013 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. **TI-37368** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 10, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 10 2005

NATHANIEL TUE TRAN
3205 ASPEN GROVE
IRVINE CA 92618

In re Application of
Nathaniel T. Tan
Serial No.: 10/835,027
Filed: April 28, 2004
Attorney Docket No.:

: PETITION TO MAKE SPECIAL

This is in response to the petition filed December 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 17 2004

NATHANIEL TUE TRAN
3205 ASPEN GROVE
IRVINE CA 92618

In re Application of
Nathaniel Tue Tran.
Serial No.: 10/835,028
Filed: April 28, 2004
Attorney Docket No.:

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed June 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The application will be forwarded 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, 703-872-9306.

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

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
10/835,045	04/29/2004	3736	727	042018-0101	6	58	2

23524
FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

CONFIRMATION NO. 8094

FILING RECEIPT

OC000000013137853

Date Mailed: 07/02/2004

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

Applicant(s)

Richard L. Brown, Madison, WI;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2004

Projected Publication Date: 11/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Business process for delivering health behavior prevention services

Preliminary Class

RECEIVED
JUL - 6 2004
FOLEY & LARDNER
MADISON, WI
IP DOCKETING
CAMBI
Vprocessed. ok per. dkt'd.

604

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of MACIEL et al
Application No.: 10/835,055
Filing Date: April 30, 2004
For: DATABASE CONTROL METHOD

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

This is a decision on the petition filed November 10, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed November 10, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONNOLLY BOVE LODGE & HUTZ LLP
P O BOX 2207
WILMINGTON, DE 19899-2207

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Sridevi Narayan-Sarathy et al :
Application No. 10/835,058 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 20435-00156-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 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 September 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 27, 2006. Accordingly, the date of abandonment of this application is September 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being 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 the undersigned at (571) 272-3218.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Martin Connaughton
Ashland Inc.
5200 Blazer Parkway
Dublin, OH 43017

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

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

Mail Date: 04/20/2010

Applicant	: Thomas Gieselmann	: DECISION ON REQUEST FOR
Patent Number	: 7620571	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,063	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **952** 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

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

COPY MAILED

AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Gerhard KORDEL et al. :
Application No. 10/835,065 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. **DP-314027** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed April 16, 2007 and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 17, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amended appeal brief; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Non-Compliance of April 16, 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 Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed corrected appeal brief.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **KRISTI L. DAVIDSON**
WOOD HERRON AND EVANS, LLP
441 VINE STREET
2700 CAREW TOWER
CINCINNATI, OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 3 1 2006

Group 3700

W. Douglas Hahm
Wenderoth, Lind & Ponack, L.L.P.
2033 K Street N W, Suite 800
Washington DC 20006-1021

In re Application of: MIYOSHI et al.
Appl. No.: 10/835,071
Filed: April 30, 2004
For: A SUPPLYING APPARATUS FOR SUPPLYING COMBUSTIBLE MATERIAL, A GASIFICATION APPARATUS FOR GASIFYING COMBUSTIBLE MATERIAL AND METHOD FOR GASIFYING COMBUSTIBLE MATERIAL

: DECISION ON PETITION

This is a decision on the petition filed on December 2, 2005 by which petitioners request the finality of the Office Action dated November 16, 2005 be withdrawn. The petition is considered pursuant to 37 CFR 1.181, is timely and no fee is required.

The petition is granted.

Review of the application and of the claims shows a non-final Office Action was entered into the record on May 9, 2005. In this Office Action, dependent claim 5 was indicated as being allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim. On August 9, 2005, petitioner filed an amendment which incorporated the language of claim 5 into new independent claim 19. Petitioner notes that although some modifications were made to the language of the original base independent claim 1, those modifications were merely editorial changes not modifying the scope of the claims. Petitioner received a Final rejection on November 11, 2005 which utilized newly cited prior art in rejecting claim 19. Petitioner is of the opinion that since the exact language of claim 5 was incorporated into new claim19 with editorial changes to the language from previous claim 1, new claim 19 corresponds to the scope of allowable dependent claim 5 and therefore could not have necessitated the Examiner's new ground of rejection.

Prior claim 1, from which claim 5 depended defined the environment of use as:
"for supplying a combustible material to an upper portion *of a fluidized bed of a fluidized-bed gasifier chamber or a fluidized-bed combustion chamber*"

and recited in part:
"*...a mechanical supplying apparatus configured to supply* a combustible material from said hopper to said fluidized-bed gasifier chamber or said fluidized-bed combustion chamber *through a flow passage of the combustible material...*"

Claim 19 added on August 9, 2005 to rewrite claim 5 in independent form defined the environment of use as :
"for supplying a combustible material to an upper portion *of a chamber of a fluidized bed*"

and recites in part:
" a mechanical supplying device for transferring the combustible material from said hopper to the upper portion of the chamber, said mechanical supplying *device being shaped and arranged to form a flow passage of the combustible material...*"

It is clear from a comparison of original claim 1 and added claim 19 that the August 9, 2005 amendment did not substantively change the scope of the base claim. In as much as it, the claim, has not been amended past that which might have been reasonable expected by clarifying the type of chamber and more particularly and distinctly describing the supply device, claim 19 appears to be of equivalent scope as prior claim 5. Thus petitioner's amendment did comply with the conditions set forth in the May 9, 2005 Office action for the allowance of claim 5 if presented in independent form, and it was reasonable for petitioner to expect claim 19 to be allowed. While the rejections applied by the examiner appear appropriate, petitioner is entitled to consider the newly applied prior art and be afforded an opportunity to respond. The finality of the office action was inappropriate.

For at least the above reasons, the examiner was not in compliance with proper examining practice as set forth in MPEP 706.07(a) in making the next Office action final based upon newly applied prior art. The finality of the prior office action is hereby withdrawn. The time period for response continues to run as set forth in the prior office action. The application is being forwarded to the Head Supervisory Applications Examiner for endorsement of a change in status in the Office's PALM system to show the November 11, 2005 office action as a non-final office action and to await response by applicant.

PETITION GRANTED

Karen M. Young

Karen Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 23 2005

TECHNOLOGY CENTER 2100

In re Application of: ITO, et al.
Application No. 10/835,073
Filed: April 30, 2004
For: METHOD OF CHANGING SYSTEM CONFIGURATION IN SHARED-NOTHING DATABASE MANAGEMENT SYSTEM

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

This is a response to the petition filed 08 November 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 08 November 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of U.S. Patent Number 6,173,306 merely states that it "appears to make similar disclosures" to U.S. Patent Number 5,860,137. This discussion is not sufficiently detailed. The discussion should positively state what a reference discloses rather than what it "appears" to disclose. Also, the discussion should cite what each particular reference discloses rather than saying that the disclosure of a reference is "similar" to another reference.

Also, on page 4 of the petition, it is stated that "[t]o the extent applicable to the present Petition, Applicants submit that although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." It is not clear if the statement is applicable to the present petition or not. The language "to the extent applicable to the present Petition" gives no indication as to whether the statement actually applies in the instant application or not. Rather, this language is generic to practically any petition of this type and is not specific to the instant application. If the combination of elements referred to do in fact constitute a substantial portion of the claim, then this should be stated. Also, if the combination of elements is necessary because, e.g., there is a necessary interoperability among these elements, then this too should be stated and the reasons for the, e.g., necessary interoperability, discussed.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

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

MAILED

SEP 05 2006

Technology Center 2100

In re Application of: Ito, et al.
Application No. 10/835,073
Filed: April 30, 2004
For: METHOD OF CHANGING SYSTEM CONFIGURATION IN SHARED-NOTHING DATABASE MANAGEMENT SYSTEM

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

This is a decision on the Request for Reconsideration filed February 3, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on November 8, 2005, and dismissed on December 23, 2005.

The Petition is **DENIED**.

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

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

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

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

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

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

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

The renewed petition filed February 3, 2006 fails to adequately meet requirement (e) of the criteria set forth above. As stated in the previous decision of December 23, 2005, the discussion of U.S. Patent Number 6,173,306 merely states that it "appears to make similar disclosures" to U.S. Patent Number 5,860,137. This discussion is not sufficiently detailed, as is required. The discussion must positively state what a reference discloses rather than what it appears to disclose. Also, the discussion should cite what each particular reference discloses rather than indicating that the disclosure of a reference is "similar" to another reference. In addition, the instant petition fails to identify how the claimed subject matter in the instant application, is patentable over the reference to Raz, et al., U.S. 6,173,306.

Accordingly, the Petition to Make Special **DENIED** since all of the requirements for special status under MPEP § 708.02(VIII) have NOT been met. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 14 2005

Technology Center 2100

In re Application of: ABE, et al.
Application No. 10/835,074
Filed: April 30, 2004
For: DISK ARRAY SYSTEM AND FAULT-TOLERANT CONTROL METHOD FOR THE SAME

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

This is a response to the petition filed 03 November 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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
10/835,102	04/29/2004	2131	770	03-SIN-114	6	20	2

CONFIRMATION NO. 4357

Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc.
1310 Electronics Drive
Carrollton, TX 75006

UPDATED FILING RECEIPT

OC000000013977094

Date Mailed: 10/01/2004

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)

Bernard Plessier, Singapore, SINGAPORE;

Assignment For Published Patent Application

STMicroelectronics Asia Pacific Pte., Ltd., Singapore, SINGAPORE

Power of Attorney:

Lisa K. Jorgenson–34845
Mario Donato Jr.–37816
William Esser–38053
William Munck–39308
Daniel Venglarik–39409
John Mockler–39775
Nainesh Shah–40166

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/835,102

Projected Publication Date: 11/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and method for consistency checking public key cryptography computations

Preliminary Class

380

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

COPY MAILED

SEP 1 0 2007

OFFICE OF PETITIONS

In re Application of :
James Michael McArdle :
Application No.10/835,107 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket Number: AUS920040037US1(4040) :
Title of Invention: Methods, Systems and Media For Handling Errors in Script Files :

This is a decision on the petition filed August 27, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed May 18 , 2007. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 19, 2007. The mailing of a Notice of Abandonment was mailed on August 31, 2007.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

SPE: R. EDUARDO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/5/06

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835,109 Patent No.: 7029475

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: Changes to figures 2 & 3a introduce new matter, e.g. elements 16 & 18 are not connected to part #10.

SPE

3733
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office
EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 05/31/07

Patent No. : 7029475 B2
Patent Issued : 04/18/06
Docket No. : **99560.00004**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 06/21/06; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

McCarter & English, LLP
Financial Centre, Suite 304A
695 East Main Street
Stamford CT 06901-2138

LMN

SPE; R. EDUARDO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/5/06

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835,109 Patent No.: 2029425

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: Changes to figures 2 & 3a introduce new matter, e.g. elements 16 & 18 are not connected to part # 10.

SPE

3733
Art Unit

EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 21,2007**

TO SPE OF : ART UNIT **3733**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/835,109** Patent No.: **7029475 B2**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Eduardo C. Robert/ **3733**

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

Mail Date: 05/20/2010

Applicant	: Stefan Brueck	: DECISION ON REQUEST FOR
Patent Number	: 7620004	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/835,112	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOHN CASTELLANO, III
HARNESS DICKEY AND PIERCE PLC
P.O. BOX 8910
RESTON, VA 20193

In re Application of

Martin Bondo Jorgensen, et al.
Application No. 10/835,113
Filed: April 30, 2004
For: **MINIATURE HEARING AID INSERT MODULE**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on March 9, 2005.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Daniel J. Burnham
Jenkens & Gilchrist
225 W. Washington Street
Suite 2600
Chicago, IL 60606-3909

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

NEXSEN PRUET
P O BOX 10107
GREENVILLE SC 29603

COPY MAILED

AUG 0 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,140,467 :
Issued: November 28, 2006 :
Application No. 10/835,120 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket Number: 24991-37 :

This is a decision on the petition under 37 CFR 1.322 filed May 23, 2007 for a certificate of correction to correct the name of the assignee.

The petition is **DISMISSED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted September 29, 2006, failed to identify the assignee. However, the granting of a request under 37 CFR 3.81 (b)[1] is required to correct applicant's error providing incorrect or erroneous assignment 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.

The instant petition was not submitted with a petition under 37 CFR 3.81(b), and fee, and thus cannot be granted.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

Any request for reconsideration under 37 CFR 3.81(b) should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. .

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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

JOHN HARDAWAY
NEXSEN PRUET JACOBS & POLLARD, LLC
P.O. BOX 10107
GREENVILLE SC 29603

COPY MAILED

JAN 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,140,467 :
Issued November 28, 2006 :
Application No. 10/835,120 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket Number: 24991-37 :

This is a decision on the petition, filed under 37 CFR 3.81(b) [1] on October 11, 2007 (certificate of mail date) and supplemented on December 18, 2007, to correct the assignee's name on the front of the Patent.

The petition is **DISMISSED**.

Petitioner states that the assignee's name, ALUMINUM LADDER COMPANY, was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time the issue fee was paid. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct 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.

The petition however, is not accompanied by a certificate of correction form (PTO/SB/44) as required by 37 CFR §§ 1.323 and 3.81(b) and thus is not grantable.

---

[1] *See* Official Gazette of June 22, 2004

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. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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

JOHN HARDAWAY
NEXSEN PRUET JACOBS & POLLARD, LLC
P.O. BOX 10107
GREENVILLE SC 29603

COPY MAILED

FEB 0 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,140,467 :
Issued November 28, 2006 :
Application No. 10/835,120 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket Number: 24991-37 :

This is a decision on the request for reconsideration filed January 11, 2008, under 37 CFR 3.81 (b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee's name, ALUMINUM LADDER COMPANY, was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time the issue fee was paid. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct 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.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

A petition under 37 CFR 3.81 was filed October 11, 2007 and dismissed in a decision mailed January 4, 2008 since the request was not accompanied by a certificate of correction.

Office assignment records however, reflect that ALUMINUM LADDER COMPANY 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 proper fees for the petition and the certificate of correction have been applied.

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

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

MAILED

JUL 20 2006

Director's Office
Group 3700

Douglas D. Hancock
IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND OR 97201

In re Application of: JACKSON
Appl. No.: 10/835,136
Filed: April 28, 2004
For: GOLF PUTTER

: DECISION ON PETITION

This is a decision on the petition filed on April 7, 2006 by which petitioners request the application be treated special under 37 CFR 1.102(c) due to applicants age and/or heath. The petition is considered pursuant to 37 CFR 1.102 (c), and no fee is required.

The petition is granted.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02 (III) and (IV) of the Manuel of Patent Examining Procedure (MPEP). However, as the application stands patented, there appears no benefit in the granting of special status.

Any questions regarding this decision should be directed to J. Harrison at 571-272-4449.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN - 3 2005

ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

In re Application of	:
Sam Speron	:
Serial No.: 10/835,150	: PETITION TO MAKE SPECIAL
Filed: April 30, 2004	:
Attorney Docket No.: 0003336.0003	:

This is in response to applicants' petition filed May 23, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

SEP 13 2005

TECHNOLOGY CENTER 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA
SUITE 303
VALLEY STREAM, NY 11580-6170

In re application of : **DECISION ON PETITION**
David S. Breed et al. : **TO MAKE SPECIAL**
Application No. 10/835,159 : **(APPLICANT'S AGE)**
Filed: April 29, 2004 :
For: SYSTEM AND METHOD FOR ELIMINATING
AUDIBLE NOISE FOR ULTRASONIC TRANSDUCERS

This is a decision on the petition submitted on July 18, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a passport indicating Mr. Breed is at least 65 years of age.

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

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

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

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

KJD/slb: 07/21/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-05

ELIZABETH SWANSON
c/o SWANSON & ASSOCIATES
9454 WILSHIRE BLVD.
SUITE 500
BEVERLY HILLS CA 90212

COPY MAILED

JUL 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Hodesh et al. :
Application No. 10/835,166 : ON PETITION
Filed: 30 April, 2004 :
Atty Dcket No. STRINGED MUSICAL :
INSTRUMENT PICK WITH INERT :
ADHESION :

This is a decision on the petition filed on 24 June, 2005, under 37 CFR 1.183 and 1.48(a) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be deleted as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which require that the person being deleted as an inventor sign a statement of lack of deceptive intent.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 1.48(a) and 1.183."

On 30 April, 2004, the above-identified application was filed, accompanied by a declaration under 37 CFR 1.63 was filed naming Michell Jay Hodesh and Timothy W. Aaron as joint inventors.

On 24 June, 2005, the present petition was filed, whereby petitioners seek to delete Timothy W. Aaron as a joint inventor. Petitioners further state that Aaron has refused to sign the

statement of lack of deceptive intention required by 37 CFR 1.48(a)(2).

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks items (1) and (2).

In regard to item (1), the inventor sought to be deleted, Aaron, has not signed a statement that the error in inventorship occurred without deceptive intention. As petitioners have filed a petition under 37 CFR 1.183 to waive the requirement of Aaron's signature, this issue is discussed in detail *infra*.

In regard to item (2), petitioners have not provided an oath or declaration signed by the actual inventor, Hodesh, in compliance with 37 CFR 1.63 and 1.67. Any renewed petition should include a properly executed declaration identifying Hodesh as the sole inventor.

Petition Under 37 CFR 1.183

Petitioners state that Aaron has refused to sign a statement of lack of deceptive intent and request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) of the statement of lack of deceptive intent.

Petitioners' argument has been considered, but is not persuasive. 37 CFR 1.183 permits the Commissioner to waive a rule when extraordinary circumstances exist and justice requires waiver of the rule. Applicant has not shown the existence of any extraordinary circumstances where justice requires waiver of the rule requiring a statement of lack of deceptive intent. In this regard, although no petition under 37 CFR 1.47 is required, the principles thereof are applicable to the situation at hand.

As such, petitioners should send or give a copy of the statement of lack of deceptive intent to Aaron at his last known address, along with a request that he sign and return it.

If an inventor's signature cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioners may seek waiver under 37 CFR 1.183 of that part of the regulation.[1] Petitioners must show that the inability to obtain the signatures of the non-signing inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[2] If the inventor refuses to sign the statement of lack of deceptive intention, petitioners should provide proof that the statement was sent or given to the inventor sought to be deleted by providing a copy of the cover letter transmitting the statement of lack of deceptive intent to the inventor at his last known addresses or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If a joint inventor refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the statement is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate the joint inventor by providing a copy of an envelope showing that a letter sent to the last known address of the joint inventor was returned as undeliverable by the post office. Details of the efforts made to locate the joint inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details. If repeated efforts to contact the joint inventor by telephone, Internet, or mail are unsuccessful, petitioners will have shown that the inventors cannot be reached.

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

---

[1] See MPEP 201.03(B).

[2] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-05

ELIZABETH SWANSON
c/o SWANSON & ASSOCIATES
9454 WILSHIRE BLVD.
SUITE 500
BEVERLY HILLS CA 90212

COPY MAILED

OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Hodesh et al.	:	
Application No. 10/835,166	:	ON PETITION
Filed: 30 April, 2004	:	
Atty Dcket No. STRINGED MUSICAL INSTRUMENT PICK WITH INERT ADHESION	:	

This is a decision on the renewed petition filed on 26 September, 2005, which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be deleted as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which require that the person being deleted as an inventor sign a statement of lack of deceptive intent.

The petition is again **DISMISSED**.

On 30 April, 2004, the above-identified application was filed, accompanied by a declaration under 37 CFR 1.63 was filed naming Michell Jay Hodesh and Timothy W. Aaron as joint inventors.

On 24 June, 2005, a petition was filed, whereby petitioners seek to delete Timothy W. Aaron as a joint inventor. Petitioners further state that Aaron has refused to sign the statement of lack of deceptive intention required by 37 CFR 1.48(a)(2). The petition was dismissed on 25 July, 2005.

On 26 August, 2005, joint inventor Aaron, by way of registered patent attorney Bruce A. Jagger, Belasco Jacobs & Townsley, LLC, filed a "Supplemental Statement of Facts" alleging, in essence, that Aaron is in fact an actual inventor of the invention which is the subject of the patent invention.

On 26 September, 2005, the present renewed petition was filed, in which petitioners again request that Aaron be deleted as an inventor.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks items (1) and (2).

In regard to item (1), the petition is dismissed as it clearly lacks the statement required from the inventor sought to be deleted. Specifically, joint inventor Aaron has not signed a statement that the error in inventorship occurred without deceptive intention. As petitioners have filed a petition under 37 CFR 1.183 to waive the requirement of Aaron's signature, this issue is discussed in detail *infra*.

In regard to item (2), petitioners have not provided an oath or declaration signed by the actual inventor, Hodesh, in compliance with 37 CFR 1.63 and 1.67. A review of the papers filed with the renewed petition reveals that no oath or declaration in compliance with 37 CFR 1.63 and 1.67 signed by the actual inventor has been filed therewith.

Petition Under 37 CFR 1.183

Petitioners state that Aaron has refused to sign a statement of lack of deceptive intent and request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) of the statement of lack of deceptive intent.

Petitioners' argument has been considered, but is not persuasive. 37 CFR 1.183 permits the Commissioner to waive a rule when

extraordinary circumstances exist and justice requires waiver of the rule. Applicant has not shown the existence of any extraordinary circumstances where justice requires waiver of the rule requiring a statement of lack of deceptive intent. Where, as here, the question of inventorship between the diverse parties is vigorously contested, the USPTO will not relax the requirement of 37 CFR 1.48 by way of 37 CFR 1.183.[1] As petitioners have not adequately shown that either an extraordinary situation is herein present or that "justice requires" waiver, the petition for waiver is dismissed.

Accordingly, it would also be contrary to the intent of the regulations to permit, *ex parte*, by waiver of the rules, Hodesh to unilaterally extinguish the property rights that Aaron has in this application. Aaron, as a joint inventor, has a property right in this application that can be canceled, revoked, or annulled ***only*** by proceedings that afford due process of law.[2] An *ex parte* proceeding in the USPTO is not the appropriate forum for the contested extinction of a property right in an application.[3] That is especially so in, as here, the presence of the express objection of the party whose interest(s) is being extinguished.[4]

Moreover, petitioners have a suitable remedy on hand for their predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. It is brought to petitioners' attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought.[5] It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes.[6] Furthermore, in circumstances as herein, the USPTO seeks to preserve the rights of all parties to the extent it is able.[7]

---

[1] See In re Cooper, 230 USPQ 638, 639 (Comm'r Pat. 1985).

[2] Iowa State Univ. Research. Found. v. Sperry Rand Corp., 444 F.2d 406, 410, 170 USPQ 374, 377 (4th Cir. 1971).

[3] See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995).

[4] Id.; In re Hardee, 223 USPQ 1122 (Comm'r Pat. 1984).

[5] See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982).

[6] See Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moeller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex parte McTammany, 1900 Dec. Comm'r Pat. 168, 181 (Comm'r Pat. 1900); Ex parte McFarlane, 1896 Dec. Comm'r Pat. 37, 38 (Comm'r Pat. 1896); Ex parte Gallatin, 1892 Dec. Comm'r Pat. 106 (Comm'r Pat. 1892).

[7] See Rainer v. McPhail, 1899 C.D. 196, 197 (Comm'r Pat. 1899).

POSSIBLE REMEDY FOR BOTH HODESH AND AARON

As noted in MPEP 201.03, an alternative means to correct an alleged error in inventorship is to simply file a continuing application whose executed oath or declaration, on filing, sets forth the desired inventive entity, which obviates the need for a petition under 37 CFR 1.48 (and § 1.183). Thus, Hodesh may file such a continuing application that sets forth, in Hodesh's opinion, the correct inventive entity. Should Aaron continue to dispute Hodesh's determining of inventorship in Hodesh's forthcoming continuing application, Aaron likewise has a possible remedy, as explained in MPEP 409.03(i), in himself filing a continuing application, where, presumably, Hodesh will refuse to sign Aaron's continuing application's oath/declaration such that Aaron may therein proceed under 37 CFR 1.47 and seek an interference with Hodesh's continuing application. Here, the two continuing applications will presumable recite different inventive entities, and as such, reflect different parties in interest.

Both parties are advised that the USPTO will only consider an inventorship dispute by way of inter partes proceedings.[8] Where a person believes that he is the inventor of subject matter claimed in the application or patent of another, his remedy is to file an application, if he can, and provoke an interference with the other application or patent. The question of prior inventorship can then be decided by the Board of Patent Appeals and Interferences based on evidence taken *inter partes*.[9] The USPTO will not resolve, *ex parte*, any dispute as to inventorship, nor will it make, *ex parte*, an inventorship determination.[10]

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

---

[8] Id.

[9] See In re Hardee, 223 USPQ 1122 (Comm'r Pat. 1984); Sewall v. Walters, 21 F.3d 411, 412, 30 USPQ2d 1356, 1357 (Fed. Cir. 1994).

[10] See 37 CFR 1.48; Hardee, Id.

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

Telephone inquiries concerning this matter may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/29/08

Paper No.: —

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835170 Patent No: 7036886B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: All requested changes are approved by the Examiner

R B. McPartlin

DAVID DUNN
SUPERVISORY PATENT EXAMINER

DAVID DUNN
SUPERVISORY PATENT EXAMINER

SPE

3636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Applied Materials
Patent Counsel - Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

COPY MAILED

FEB 2 0 2007

OFFICE OF PETITIONS

In re Patent of Yau et al. :
Patent No. 7,023,092 :
Issue Date: April 4, 2006 : Decision on Petition
Application No. 10/835,171 :
Filing Date: April 29, 2004 :
Attorney Docket No. APPM/2592.C10 :

This is a decision on the petition under 37 CFR 1.182 filed August 11, 2006, to allow the correction of an inventor's name via a Certificate of Correction.

The petition is **dismissed as moot and unnecessary**.

MPEP 605.04(b) states,

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

The incorrect spelling of the Yung-Chen Lu's name appears to be the result of a typographical error. Therefore, a petition under 37 CFR 1.182 is unnecessary. Petitioner submitted $130 for the petition fee. The $130 has been credited back to petitioner's deposit account.

This matter will now be referred to the Certificate of Correction branch for consideration of the requested Certificate of Correction.

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
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.
10/835,183	04/29/2004	Bryan Kainer	1814-20001	9375

23505 7590 06/20/2008

CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

EXAMINER	
GAY, JENNIFER HAWKINS	

ART UNIT	PAPER NUMBER
3672	

NOTIFICATION DATE	DELIVERY MODE
06/20/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pathou@conleyrose.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

JUN 19 2008

TECHNOLOGY CENTER 3600

In re Patent No. KAINER ET AL.
Issue Date: May 9th, 2008
Appl No.: 10/835,183
Filed: April 29, 2004
For: BOP HANDLING SYSTEM

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed March 10th, 2008 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.

/Jennifer H Gay/
Jennifer H Gay
Supervisory Patent Examiner
Art Unit 3676
Technology Center 3600

CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

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: June 16, 2008
TO: Certificates of Correction Branch
FROM: Jennifer H Gay
SPE, Art Unit 3676
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,040,411 as specified on the attached Certificate.

/Jennifer H Gay/
Jennifer H Gay, SPE
Art Unit 3676

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,040,411
Patented: May 09, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

The following inventor has been added:
Kam Kondue, Alberta Canada

/Jennifer H Gay/
Jennifer H Gay
Supervisory Patent Examiner
Art Unit 3676

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

MEDTRONIC VASCULAR, INC.
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

Mail Date: 04/21/2010

Applicant	: Jeffrey W. Allen	: DECISION ON REQUEST FOR
Patent Number	: 7577477	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** 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. 6852940
Issue Date: February 8,2005
Application No. 10835227
Filed: April 29,2004
Attorney Docket No. WFP-0402

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 17,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,852,940	2005-02-08	10835227	2004-04-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WERNER H. STEMER/	Date (YYYY-MM-DD)	2009-09-17
Name	WERNER H. STEMER	Registration Number	34956

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN A. SMART
201 LOS GATOS
SARATOGA RD, #161
LOS GATOS, CA 95030-5308

Mail Date: 04/21/2010

Applicant	: Anisoara Nica	: DECISION ON REQUEST FOR
Patent Number	: 7617179	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,230	: 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 **1029** 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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: M. Mercedes Maroto-Valer	: DECISION ON REQUEST FOR
Patent Number	: 7604787	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,241	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** 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

OBERIKALER C/O ROYAL W. CRAIG
120 EAST BALTIMORE STREET
BALTIMORE MD 21202

COPY MAILED

SEP 0 8 2008

In re Application of :
John George Mosko :
Application No. 10/835,243 : DECISION ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. SZCZESNY-PPA-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 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 and to submit corrected formal drawings on or before December 21, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 21, 2007. Accordingly, the date of abandonment of this application is December 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00, the publication fee of $300.00 , and corrected formal drawings , (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Thomas HECHT, et al :
Application No. 10/835,259 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. 548322005800 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 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 Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS HECHT
ZITTAUER STRASSE 22
DRESEN 01099 GERMANY

cc: GERO G. MCCLELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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

O'KEEFE, EGAN & PETERMAN, L.L.P.
BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Paul Walton Hein :
Application No. 10/835,274 :
Filed: April 29, 2004 :
Attorney Docket No. LCOM:008 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed May 23, 2006, to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 11, 2005. Accordingly, this application became abandoned on January 12, 2006. A Notice of Abandonment was mailed on May 15, 2006.

Petitioner asserts that a response and amendment were timely submitted on January 12, 2006 and contained an executed certificate of mailing under 37 CFR 1.8 dated January 9, 2006.

However, petitioner states that the response and amendment submitted on January 12, 2006 (Certificate of Mailing date: January 9, 2006), were erroneously identified by applicant as papers for application no.10/835,724, and not 10/835,274.

Please note MPEP 502:

> "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions."

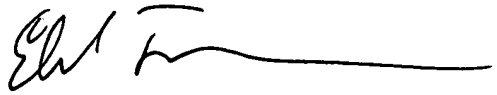
Accordingly, the petition is granted and the holding of abandonment is withdrawn.

Petitioner should take care in the identification of papers submitted to the USPTO as errors in the identification may lead to delays in the examination process.

The papers erroneously submitted under application no. 10/835,724 have been moved to the instant application, application no. 10/835,274.

This application is being forwarded to Technology Center 3600, for review of the response and amendment, filed January 12, 2006 (Certificate of Mailing date: January 9, 2006), *in due course*.

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



Edward J. Tannouse
Petitions Attorney
Office of Petitions
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

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

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Kaoru Saigoh et al	:	
Application No. 10/835,310	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 042376	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 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 2818 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\Dec10\835310.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLORIDA A&M UNIVERSITY
2077 E. PAUL DIRAC DRIVE
TALLAHASSEE, FL 32310

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
John S. Copperwood :
Application No. 10/835,312 : ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. 2004 FAMU-002 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 21, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 22, 2004.

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

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

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

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
IPLAW DEPARTMENT
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE NY 12601

COPY MAILED

AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of
LEWIS, et al.
Application No. 10/835,324
Filed: April 29, 2004
Attorney Docket No.

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 August 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 8, 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.

Telephone inquiries 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 information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 27 2005

In re Application of	:	
Daniel E. Reiner et al.	:	
Serial No. 10/835,339	:	DECISION ON PETITION
Filed: April 29, 2004	:	TO MAKE SPECIAL
For: CASINO STYLE WAGERING GAME	:	

Applicant's petition, filed May 2, 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.

Richard A. Bertsch, Director
Technology Center 3700

Rob L. Phillips
Quirk & Tratos
3773 Howard Hughes Pkwy., Suite 500 North
Las Vegas, NV 89109

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

EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
Daniel B. Laubacher et al :
Application No. 10/835,345 : DECISION GRANTING PETITION
Filed: April 29, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CL2339USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2004, 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 Final Rejection of March 3, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2859.

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
www.uspto.gov

PAI PATENT & TRADEMARK LAW FIRM
1001 FOURTH AVENUE, SUITE 3200
SEATTLE, WA 98154

COPY MAILED
NOV 2 6 2008

In re Application of	:	
Tsung-Kan Cheng, et al.	:	
Application No. 10/835,351	:	DECISION ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No.: 2001077	:	

This is a decision in response to the petition, filed December 12, 2005, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

This application was held abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 26, 2005. A Notice of Abandonment was mailed on August 10, 2005. On December 12, 2005, the present petition was filed. Petitioner asserts that the abandonment should be withdrawn, since "[a]n amendment to the application, together with a petition and fee for a 3 month extension, was filed July 25, 2005..."

A review of the application file confirms receipt of a response to the January 26, 2005, Office action, as it is present among the papers contained in the file. It is noted that the response, including a 3-month petition for extension of time, was filed on August 2, 2005, using a Certificate of Mailing under 37 CFR 1.8 dated July 25, 2005. Accordingly, the response is considered timely.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The requisite fee for the 3-month extension of time is being charged to counsel's deposit account, as authorized on August 2, 2005.

The application is being referred to Technology Center AU 2833 for appropriate action by the Examiner in the normal course of business on the reply received August 2, 2005.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: Dov Tamarkin	: DECISION ON REQUEST FOR
Patent Number	: 7575739	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,359	: 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 **1279** 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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Kevin L. Obrachta	: DECISION ON REQUEST FOR
Patent Number	: 7575702	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1428** 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 : 5/17/07

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction on Patent No.: 7144219

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

Ed Tolan — SPE

3745 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/06

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835,390 Patent No.: 7087950

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 cols.

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: _____

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2891
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080118

DATE : January 18, 2008

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 7,087,950

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

Comments:

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: William B. Baumeister **Art Unit** 2891

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,087,950 B2 Page 1 of
DATED: August 8, 2006
INVENTOR(S): Willer, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

in column 9, line 41; delete "trough" and replace with --through--.

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

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

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of
Valery A. Patrenko et al.
Application No. 10/835,405
Filed: April 29, 2004
Attorney Docket No: **035721/277997**

ON PETITION

This is a decision on the petition filed March 17, 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 June 20, 2005, for failure to file a timely response to the Restriction Requirement mailed May 17, 2005, which set a one (1) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 28, 2005. Petitioner asserts that the office action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report and mail log, wherein receipt of the Office Action mailed May 17, 2005 would have been filed, had it been received. To show that the Notice mailed May 17, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record and mail log for the instant matter show no entry indicating receipt of the Restriction Requirement Action mailed May 17, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due. Petitioner's deposit account was charged in the amount of $250.00 but will be credited back.

This matter is being referred to Technology Center 1654 for appropriate action on the response to the May 17, 2005 office action which was filed March 17, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

JUL 20 2004

OMRI M. BEHR
325 PIERSON AVE.
EDISON NJ 08837-3123

In re Application of	:	
Leonard Mackles	:	
Serial No.: 10/835.449	:	PETITION TO MAKE SPECIAL
Filed: April 29, 2004	:	
Attorney Docket No.: CHAV 3.0-034	:	

This is in response to applicants' petition filed April 29, 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

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

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

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Bassiri et al.	:	
Application No. 10/835475	:	
Filing or 371(c) Date: 04/29/2004	:	DECISION
Attorney Docket Number:	:	ON PETITION
CEN 5022 USNP	:	

This is a decision on the Petition Under 37 C.F.R. 1.10, filed March 7, 2007, requesting that provisional application 60/466,341 be accorded a filing date of April 29, 2003, rather than the presently accorded filing date of April 28, 2003. The petition is properly treated under 37 CFR 1.10(d).

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]", and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application.

Applicant alleges that the provisional application 60/466,341 was deposited in Express Mail service on April 29, 2003. In support of this assertion, Applicant putatively files a copy of the provisional application coversheet, and a copy of the Express Mail return receipt. Office records do not reveal that a copy of the provisional application coversheet, and a copy of the Express Mail return receipt were filed with the present petition.

Initially it is noted that, in order to correct the filing date of provisional application 60/466,341, Applicant must file a petition in provisional application 60/466,341. See, 37 CFR 1.4.

In the interest of time, the following is provided:

Applicable Law, Rules and MPEP

37 CFR 1.10(d) provides that

> [a]ny 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:
>
> (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. (Emphasis supplied).

Id.

Analysis and conclusion

Applicant has failed to satisfactorily demonstrate that the evidence provided complies with 37 CFR 1.10(d)(3). As noted above, no copy of the Express Mail return receipt was filed with the present petition. Applicant has failed to provide corroborating 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. As such, Applicant has failed to satisfy 37 CFR 1.10(d).

Applicant should file a petition in provisional application 60/466,341, and include the requisite corroborating evidence.

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

By mail: Mail Stop PETITIONS
Director 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 matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

OCT 19 2005

OFFICE OF PETITIONS

TOM CHEN
MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

In re Application of :
Michael Ahern et al. :
Application No. 10/835,492 : DECISION ACCORDING STATUS
Filed: April 29, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. M-15272 US :

This is in response to the petition filed April 29, 2004 under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on April 29, 2004, naming Michael Ahern and Howard M. Kingston as joint inventors. The oath or declaration filed with the application was signed only by joint inventor Ahern and, the instant petition filed with the application, seeks status under 37 CFR 1.47, and claims that joint inventor Kingston refuses to join in the application.

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

The petition bears proof that the application papers were forwarded to and received by Meryl Macklin, counsel for non-signing inventor Howard M. Kingston and that to date, Mr. Kingston has not returned an executed copy of the oath or declaration.

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

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Publishing Division to await payment of the issue fee.

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

HOWARD M. KINGSTON
680 UNION AVENUE
PITTSBURGH, PA 15229

COPY MAILED

OCT 19 2005

OFFICE OF PETITIONS

In re Application of
Michael Ahern et al.
Application No. 10/835,492
Filed: April 29, 2004
For: NEBULIZER WITH PLASMA SOURCE

Dear Mr. Kingston:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

TOM CHEN
MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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

AT & T LEGAL DEPARTMENT – FKM
AT & T LEGAL DEPARTMENT
ATTN: PATENT DOCKETING ROOM 2A-207
BEDMINSTER, NJ 07921

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Michael L. Asher et al :
Application No. 10/835,496 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 2003-0035 (40147/11102) :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, 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 September 10, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 11, 2007.

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

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

This matter is being referred to Technology Center AU 2137 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael J. Marcin
150 Broadway, Suite 702
New York, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven A. Bade, et. al.	:	
Application No. 10/835,498	:	DECISION ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. AUS920030832US1	:	

This is a decision on the petition under 37 CFR 1.181, filed August 15, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Notice) mailed April 16, 2008. A Notice of Abandonment was mailed on August 11, 2008.

Petitioner asserts that the Office action dated April 16, 2008 was not received.

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

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

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

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

The petition fails to satisfy number three of the above-stated requirements.

Petitioner states that "the docketing system used by the undersigned attorney would regularly have the first entry dated one-month before the issue fee payment deadline, and a second entry with the same date as the issue fee payment deadline. In this case, those entries would be dated June 16, 2008, and July 16, 2008, respectively."

A review of the record shows that the Notice was mailed on April 16, 2008 and petitioner could have received the Notice sometime between April 17, 2008 and May 30, 2008[1]. Therefore, petitioner must supply a master docket for those months mentioned above. If no such master docket exists, petitioner 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.

Accordingly, absent the required evidence to establish nonreceipt of the Notice mailed April 16, 2008, 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 $1,620 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).

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."

[1] It is noted that May 31, 2008 fell on a Saturday.

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

The Change of Correspondence Address filed on August 15, 2008 has been accepted and made of record.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 13 2009

OFFICE OF PETITIONS

MAILED

NOV 13 2009

OFFICE OF PETITIONS

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

In re Application of :
Steven A. Bade, et. al. :
Application No. 10/835,498 : DECISION ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. AUS920030832US1 :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee), filed November 6, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

In response to the decision mailed on September 10, 2009, petitioner submits the present renewed petition along with a copy of the master docket to show non-receipt of the Office action mailed April 16, 2008.

The showing required to establish the failure to receive the Office action, under 37 CFR 1.181, 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.

Since the petition satisfies the above-stated requirements, the petition is **GRANTED**.

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

Petitioner states that "Applicants received the Notice of Abandonment in this case on August 14, 2008, and upon inspecting PAIR records discovered that a Notice of Allowance and Issue Fee Due statement was ostensibly mailed on April 16, 2008."

It is noted that the issue fee and publication fees were paid on August 15, 2008. Therefore, this application is being referred to the Office of Data Management for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Steven A. Bade	: DECISION ON REQUEST FOR
Patent Number	: 7664965	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,498	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1693** 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

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

Mail Date: 04/20/2010

Applicant	: Todd David Haverkos	: DECISION ON REQUEST FOR
Patent Number	: 7627670	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1230** 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

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

Mail Date: 07/15/2010

Applicant	: Frank Hatheway	: DECISION ON REQUEST FOR
Patent Number	: 7647264	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/835,510	: 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 **1050** 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.

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-9-07

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 7144732 B2 (10/835,517

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should claims be entered as requested?

E. James
Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

Mary Mall
SPE

1647
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Ruchika Singhal	: DECISION ON REQUEST FOR
Patent Number	: 7596399	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,527	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **800** 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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 05/17/2010

Applicant : Ruchika Singhal
Patent Number : 7596399
Issue Date : 09/29/2009
Application No: 10/835,527
Filed : 04/29/2004

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: David K. Parker	: DECISION ON REQUEST FOR
Patent Number	: 7580350	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,532	: 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 **1427** 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

Thomas P. Pavelko, Esquire
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

COPY MAILED

FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of
Goran Martensson
Application No.10/835,542
Filed: April 30, 2004
Attorney Docket Number: TPP 31433A
Title of Invention: Floor Element with Guiding Means

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition for status under 37 C.F.R. §1.47(b), filed August 30, 2004.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The petition and declaration of Diane Tate establishes the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

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

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Goran Martensson
Vallby 878
S-231 97 Klagstorp
Sweden
AIR MAIL

COPY MAILED

FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Goran Martensson
Application No.10/835,542
Filed: April 30, 2004
Attorney Docket Number: TPP 31433A
Title of Invention: Floor Element with Guiding Means

LETTER

Dear Mr. Martensson:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a co-inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Thomas P. Pavelko, Esquire
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

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

PAUL GRANDUNETTI
LEVY & GRANDINETTI
1725 K STREET, N.W.
SUITE 408
WASHINGTON, D.C. 2006-1419 WA 20006-1419

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Champ, et al. :
Application No. 10/835,603 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. LBT099US :

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

The petition is GRANTED.

The above-identified application became abandoned June 2, 2006 for failure to timely reply to the final Office action mailed March 1, 2006. The final Office action set a three month shortened statutory period of time for reply. No extensions of time were timely requested. Notice of Abandonment was mailed September 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of a continuing application, (2) the required petition fee, and (3) a proper statement of unintentional delay.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr.Krichker 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 in whose behalf he acts. If Mr. Krichker 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. Krichker, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Victor Krichker
Bereskin and Parr
40 King St W Ste 4000
Scotia Plaza P O Box 401
Toronto, ON M5H 3-Y2

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10835609 Patent No.: 7418130 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

3/19/2009

BRIAN WERNER
SUPERVISORY PATENT EXAMINER 2624

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 12-04

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
van Maris et al.	:	DECISION ON PETITION
Application No. 10/835,611	:	UNDER 37 CFR 1.78(a)(6)
Filed: 29 April, 2004	:	
Atty Dkt No. 2027.627000 2006270	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 12 October, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the 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) of the prior-filed application, unless previously submitted;[1]

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number).

> **(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 present pending nonprovisional application was filed on 29 April, 2004, within twelve months of the filing date of the prior provisional application No. 60/467,724, and for which benefit is claimed. A reference to the prior provisional application has been included in an amendment, filed concurrently with the petition, to the first sentence of the specification following the title.

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the 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.[2] Accordingly, having found that the present 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 for benefit to prior-filed provisional Application No. 60/467,724 is granted.

A corrected filing receipt which includes the prior claim to provisional Application No. 60/467,724, filed on 2 May, 2003, accompanies this decision on petition.

The $1,370.00 fee required by 37 CFR 1.78(a)(6) has been received.

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 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)(5) and (a)(6) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should

---

[2] See 35 U.S.C. § 119(e).

not be construed as meaning that applicant is entitled to the claim for benefit 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-filed provisional application.

Petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[3]

The application will be referred to Technology Center 1600 for processing the amendment embodied in the petition filed on 12 October, 2004, and for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the above-noted, prior-filed provisional application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks
Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Corrected Filing Receipt

[3] See 37 CFR 1.4(c).

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

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

COPY MAILED

JAN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Molina, Sherry L.	:	DECISION ON PETITION
Application No. 10/835,618	:	TO WITHDRAW
Filed: April 28, 2004	:	FROM RECORD
Attorney Docket No. 4520-4009	:	

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 14, 2005.

The request is **APPROVED**.

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

The request was signed by Keith McWha on behalf of all attorneys of record who are associated with Customer Number 27123.

All attorneys/agents associated with Customer Number 27123 have been withdrawn. Applicant is reminded that there is not attorney of record at this time.

The correspondence address of record has changed and the new correspondence address is the address listed below.

David Bucci
Petitions Examiner
Office of Petitions

Cc: AZNA HEALTH & WELLNESS, INC.
5210 CARMEL PARK DRIVE
CHARLOTTE NC 28226

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

MR. S. H. DWORETSKY
AT&T CORP.
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Roy, Radhika R.	:	
Application No. 10/835,632	:	ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. 1999-0587-CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 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

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

COPY MAILED

MAY 0 5 2005

OFFICE OF PETITIONS

LACKENBACH SIEGEL
ONE CHASE ROAD
SCARSDALE, NY 10583

In re Application of :
Panosian, et al. :
Application No. 10/835,658 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. P-0401 PN :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 7, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 8, 2004. A Notice of Abandonment was mailed on March 22, 2005.

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

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

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

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

M. ELISA LANE
PANACEA PHARMACEUTICALS, INC.
207 PERRY PARKWAY
GAITHERSBURG, MD 20877

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Almassian et al.	:	
Application No. 10/835,668	:	DECISION ON
Filed: April 30, 2004	:	PETITION
For: METHODS OF TREATING	:	
ISCHEMIC RELATED CONDITIONS	:	

This is a decision on the Petition to Add Name(s) of Omitted Inventor(s) to Utility Application, filed March 10, 2005. The petition is properly treated under 37 CFR 1.48.

The petition is **dismissed as moot**.

The above-identified application was filed on April 30, 2004, without an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") was mailed August 12, 2004, noting the above deficiency and requiring an executed oath or declaration.

In response, Applicant filed the instant petition, along with an oath/declaration executed by four of five inventors listed on the oath/declaration[1].

Applicable Law

Under 37 CFR 1.48(f)(1), if the correct inventors are not named on filing, without an executed oath or declaration by any of the inventors, the first submission of an executed oath or declaration by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. (Emphasis supplied).

[1] Applicant subsequently, on March 31, 2005, filed a Petition under 37 CFR 1.47(a) to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor, and a petition under 37 CFR 1.137(b) to revive the above-identified application, on March 10, 2005.

In the instant case, the correct inventors were not named on filing, and the inventor had not submitted an executed oath or declaration. Accordingly, the submission of the executed oath or declaration on March 10, 2005 acted to correct the inventorship. A petition to correct inventorship is not required.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

M. ELISA LANE
PANACEA PHARMACEUTICALS, INC.
207 PERRY PARKWAY
GAITHERSBURG, MD 20877

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Almassian et al.	:	
Application No. 10/835,668	:	DECISION ON
Filed: April 30, 2004	:	PETITION
For: METHODS OF TREATING	:	
ISCHEMIC RELATED CONDITIONS	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed October 31, 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 Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed August 12, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 13, 2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

A petition under 37 CFR 1.47(a) was granted in a Decision mailed on even date. The Oath/declaration has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

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

M. ELISA LANE
PANACEA PHARMACEUTICALS, INC.
207 PERRY PARKWAY
GAITHERSBURG, MD 20877

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Almassian et al.	:	
Application No. 10/835,668	:	DECISION GRANTING
Filed: April 30, 2004	:	STATUS UNDER
For: METHODS OF TREATING	:	37 CFR 1.47(a)
ISCHEMIC RELATED CONDITIONS	:	

This is in response to a Petition Under 37 CFR 1.47(a), filed October 31, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Bijan Almassian, refuses to join in the application.

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

The application file is being referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. BIJAN ALMASSIAN
225 OAK AVENUE
CHESIRE, CT 06410

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Almassian et al.	:	
Application No. 10/835,668	:	DECISION GRANTING
Filed: April 30, 2004	:	STATUS UNDER
For: METHODS OF TREATING ISCHEMIC RELATED CONDITIONS	:	37 CFR 1.47(a)

Dear Dr. Almassian:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: M. ELISA LANE
PANACEA PHARMACEUTICALS, INC.
207 PERRY PARKWAY
GAITHERSBURG, MD 20877

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

PANACEA PHARMACEUTICALS, INC.
207 PERRY PARKWAY
SUITE 2
GAITHERSBURG MD 20877

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Application of
Almassian et al.
Application No. 10/835,668
Filed: April 30, 2004
Attorney Docket No. PNC-010

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2008, 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 17, 2008, as required by the Notice of Allowance and Fee(s) Due mailed June 17, 2008. Accordingly, the date of abandonment of this application is September 18, 2008. A Notice of Abandonment was mailed September 23, 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 $720.00, (2) the petition fee of $770.00; 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

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

COPY MAILED

DEC 0 9 2009

OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of
Hiroyuki Tanaka, et al.
Application No. 10/835,670
Filed: April 30, 2004
Attorney Docket No. TOW-070RCE2

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 15, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 15, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 16, 2009. A Notice of Abandonment was mailed on September 30, 2009. On October 2, 2009 the present petition was filed.

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

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/Sherry D. Brinkley/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/835,678	04/30/2004	3763	1458	00315-443001	11	51	3

CONFIRMATION NO. 8010

26161
FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

UPDATED FILING RECEIPT

OC000000013706990

Date Mailed: 09/02/2004

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

Applicant(s)

James J. Britto, Westport, MA;
Shiu Hung Li, Taipo. N.T., HONG KONG;

Power of Attorney:

Timothy A. French--30175
John Hayden--37640
James Babineau--42276
David Schuler--51190

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/835,678

Projected Publication Date: 11/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Pump apparatus

Preliminary Class

604

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 31 2008

OFFICE OF PETITIONS

In re Application of :
James Brentano, et. al. :
Application No. 10/835,688 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. INT00004 :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 16, 2008, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed May 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $405 filing fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on January 16, 2008.

The application file is being referred to Technology Center Art Unit 2165, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

In re Application of Ornes et al. :
Application No. 10/835,711 :
Filing Date: April 29, 2004 :
Attorney Docket No. Zetta-1005-US1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed July 20, 2007, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Office action mailed December 5, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 6, 2007. A Notice of Abandonment was mailed on July 17, 2007.

Petitioner contends the Office action was never received. If petitioner is correct, the application is not abandoned.

MPEP 711.03(c)(I) states,

> Where an applicant contends that the application is not in fact abandoned[,] ... a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned[,] ... a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Since petitioner alleges non-receipt of an Office action, the petition will be treated as a petition under 37 CFR 1.181 and the petition under 37 CFR 1.137(a) is dismissed as unnecessary. The petition fee of $500 has been credited back to petitioner's deposit account.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:

(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.

See MPEP 711.03(c)(I).

As to item (2), petitioner has not explicitly stated the file jacket for the instant application was searched.

As to item (4), petition has not supplied a copy or printout of the docket record where the Office action would have been entered had it been received

Unless electronically filed, any request for reconsideration should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

COPY MAILED

APR 30 2008

OFFICE OF PETITIONS

In re Application of Ornes et al. :
Application No. 10/835,711 : Decision on Petition
Filing Date: April 29, 2004 :
Attorney Docket No. Zetta-1005-US1 :

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

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 5, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 6, 2007. A Notice of Abandonment was mailed on July 17, 2007.

Petitioner contends the December 5, 2006 final Office action was never received.

The record is sufficient to prove non-receipt of the final Office action. Therefore, the final Office action is vacated.

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

Technology Center Art Unit 2112 will be informed of the instant decision. Since the final Office action has been vacated, the amendment filed July 20, 2007, will be treated as a supplement to the amendment filed October 2, 2006.

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

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

COPY MAILED
NOV 16 2006
OFFICE OF PETITIONS

In re Patent of :
Huang, et al. :
Patent No. 7,125,091 : ON PETITION
Issue date: October 24, 2006 :
Application No. 10/835,714 :
Filed: April 30, 2004
Attorney Docket No. 84262
For: METHOD FOR CREATING PRINTING DATA APPLIED TO A PRINTER CAPABLE OF GENERATING INK DROPLETS OF DIFFERENT SIZES

This is a decision on the petition captioned under 37 CFR 1.47(a), which is being treated under 37 CFR §1.183 as a request for waiver of 37 CFR § 1.67 which requires that a supplemental declaration be executed by all named inventors.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

The current Rule 183 petition fee is $400.00. Petitioners have submitted $200.00 towards the petition fee. Deposit account no. 20-1430 will be charged the $200.00 balance due.

The petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.67 is **granted**.

The supplemental declaration that lacks Jane Chang's signature has been accepted, on petition, and placed in the file.

This patented file will be returned to Files Repository.

Telephone inquiries related 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
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

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

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

In re Application of
Kasperchik, et al.
Application No. 10/835,716
Filed: April 30, 2004
Attorney Docket No. 200315730-1

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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 Director may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included 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 an adequate statement of unintentional delay. Accordingly, having found that

the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The provisions of 37 CFR 1.78(a)(3) require a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required under 37 CFR 1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being directed to Technology Center Art Unit 1752 for 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.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/835,716	04/30/2004	1752	770	200315730-1	1	20	3

CONFIRMATION NO. 9463

22879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

CORRECTED FILING RECEIPT

OC000000020384202

Date Mailed: 09/12/2006

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)

Vladek Kasperchik, Corvallis, OR;
Makarand Gore, Corvallis, OR;

Power of Attorney: The patent practitioners associated with Customer Number **022879**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/695,718 10/28/2003 PAT 7,060,654

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/835,716

Projected Publication Date: 12/07/2006

Non-Publication Request: No

Early Publication Request: No

Title

Compositions, systems, and methods for imaging

Preliminary Class

430

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL 429
IP ADMINISTRATION
PO BOX 7599
LOVELAND, CO 80537-0599

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Self et al. :
Application No. 10/835,718 :
Filed: April 30, 2004 : ON PETITION
Title of Invention: :
HIGH DENSITY INTERCONNECT :

This is a decision on the Petition for Withdrawal of Abandonment, filed Octiber 18, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed April 5, 2005. The Office action set a one (1) month period for reply. No reply having been received, the application became abandoned on July 6, 2005. A Notice of Abandonment was mailed on October 5, 2005.

Applicant's Assertion

Applicant asserts that a timely reply to the Restriction Requirement was filed on May 2, 2005. In support of this assertion, Applicant provides, *inter alia*, copies of a Response to Restriction Requirement and Transmittal Letter. The Transmittal Letter contains a Certificate of Facsimile dated May 2, 2005. Applicant avers that, due to a scrivener's error, the application number was entered on the Cover Letter as application serial number 10/835,719, instead of 10/835,718.

A review of Application serial number 10/835,719, reveals that a Response to Restriction Requirement was received in the Office and placed in that application on May 2, 2005. The same Response to Restriction Requirement has been filed in this petition. Apparently the Response to Restriction Requirement was filed in this Office on May 2, 2005, and due to errors on

the part of applicant and this Office, was inadvertently placed in application serial number 10/835,719. Accordingly, the petition is granted.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 2839 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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

ATTN: KENNETH P. GEORGE, ESQ.
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

COPY MAILED

NOV 21 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey M. Vitullo, et al. :
Application No. 10/835,725 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 3600/197 :

This is a decision in response to the petition, filed June 14, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by an attorney or record. However, in accordance with 37 CFR 1.34(a), the signature of Benjamin M. Halpern 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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 12, 2006. This decision precedes the mailing of a Notice of Abandonment. On June 14, 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 $1500.00; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

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 June 14, 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., March 13, 2007. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

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

The application is being referred to Technology Center AU 3739 for consideration of the amendment filed June 14, 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

R. ANTHONY DIEHL, ESQ.
INSULET CORPORATION
9 OAK PARK DRIVE
BEDFORD, MA 01730

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Luis Malave, et al. :
Application No. 10/835,727 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. INSL-0153 :

This is a decision on the petition under 37 CFR 1.137(b), filed by March 16, 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 12, 2004. The notice required an oath or declaration under 37 CFR 1.63, the requisite surcharge under 37 CFR 1.16(e), and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. On January 5, 2005 applicant filed, inter alia, the declaration and the $65 surcharge; however, applicant did not submit the replacement drawings. Accordingly, on January 19, 2005, a Notice of Incomplete Reply (Nonprovisional) was mailed. In response, on March 16, 2005, the replacement drawings were filed, along with the present petition.

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

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings filed March 16, 2005 and for further processing using the declaration filed January 5, 2005.

Telephone inquires related to this decision may 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

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

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: David R. Oran	: DECISION ON REQUEST FOR
Patent Number	: 7580977	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1041** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC -7 2004

In re Application of	:	
William Ferrara et al.	:	
Serial No. 10/835,764	:	DECISION ON PETITION
Filed: April 29, 2004	:	TO MAKE SPECIAL
For: DOVETAIL VISE JAW PLATE ASSEMBLY	:	

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

Alvin S. Blum
2350 Del Mar Place
Fort Lauderdale, FL 33301

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

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

COPY MAILED

NOV 3 0 2004

OFFICE OF PETITIONS

In re Application of
Fukuhara, et al.
Application No. 10/835,766
Filed: April 30, 2004
Attorney Docket No.: 450100-05060
FOR: IMAGE ENCODING APPARATUS AND METHOD

DECISION DISMISSING PETITION AS MOOT

This is a decision on the petition, filed September 13, 2004 (certificate of mailing date September 8, 2004), under 37 CFR 1.182 requesting withdrawal of the Notice to File Missing Parts of Nonprovisional Application dated July 8, 2004, insofar as the Notice alleges that Figures 3, 4, 5 and 7 were missing upon initial filing.

Since the Office of Initial Patent Examination (OIPE) has already withdrawn the July 8, 2004 Notice in a "Withdrawal of Previously Sent Notice", mailed September 29, 2004, the instant petition is **DISMISSED AS MOOT**.

While OIPE correctly withdrew the July 8, 2004 Notice with respect to the allegedly omitted figures, it is noted that the requirements to file an executed oath/declaration and late surcharge were proper. Thus, the July 8, 2004 Notice was only partially invalid and the September 29, 2004 Notice should not have withdrawn the July 8, 2004 Notice insofar as it required an executed oath/declaration and late surcharge.

Petitioners have submitted an executed declaration and late surcharge on September 13, 2004 (certificate of mailing date September 8, 2004).

No petition fee has been or will be charged in connection with this matter.

The application is being forward to Technology Center G.A.U. 2621 for examination in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

BROOKS KUSHMAN P.C. /Oracle America/ SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 04/21/2010

Applicant	: David A. Choiniere	: DECISION ON REQUEST FOR
Patent Number	: 7577101	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1155** 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

James W. Potthast
Law Offices of Potthast & Associates
10606 Doorpath Road
Woodstock IL 60098

COPY MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Michael W. Lassota et al. :
Application No. 10/835,799 : ON PETITION
Filed: June 2, 2006 :
Attorney Docket No. 13641-308101 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non final Office action mailed September 15, 2008, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 16, 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; (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 September 15, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1794 for appropriate action on the amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 2 2 2004

DCM

In re Application of	:	
Richard J. Petrone	:	
Serial Number: 10/835,805	:	PETITION UNDER
Filed: April 29, 2004	:	M.P.E.P.708.02 V
For: PACKAGED WASTEWATER TREATMENT UNIT	:	

This is in response to the petition filed April 29, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

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

SPE & A. Matar

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/02

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835,823 Patent No.: 6977993

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: Changes will make dependent claims 7 (line 20), 8 (line 25) and 9 (line 30) inline with Independent claim 6, since claim 6 claims a computer program product, NOT a method as presently stated

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2614
Art Unit

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 23–3178. Duplicate copies of this letter are enclosed.

Dated this 16th day of February, 2007.

Respectfully submitted,

Jens C. Jenkins
Attorney for Patentee
Registration No. 44,803
Customer No. 022913

JCJ:jsb
Docket No. 13768.509
PR0000002039V001

CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, on this 16 day of February, 2007.

Transmitted: REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323, PTO Form 1050 and Check No. 15139 for $100.00.

FEB 28 2007

DOC Code: COCIN

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,977,993 B2

APPLICATION NO. : 10/835,823

ISSUE DATE : Dec. 20, 2005

INVENTOR(S) : Starbuck 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 10
Line 20, change "method" to --computer program product--
Line 25, change "method" to --computer program product--
Line 30, change "method" to --computer program product--

MAILING ADDRESS OF SENDER (Please do not use customer number

Jens C. Jenkins, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

FEB 2 8 2007

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 the 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.

RICK D. NYDEGGER
BRENT P. LORIMER
THOMAS R. VUKSINICK
LARRY R. LAYCOCK
JONATHAN W. RICHARDS
DAVID R. WRIGHT
JOHN C. STRINGHAM
JOHN M. GUYNN
CHARLES L. ROBERTS
DANA L. TANGREN
ERIC L. MASCHOFF
CHARLES J. VEVERKA
ROBYN L. PHILLIPS
RICHARD C. GILMORE *
STERLING A. BRENNAN
R. BURNS ISRAELSEN
DAVID R. TODD
DAVID B. DELLENBACH
L. DAVID GRIFFIN
ADRIAN J. LEE
FRASER D. ROY
CARL T. REED

R. PARRISH FREEMAN, JR.
PETER F. MALEN, JR.
L. REX SEARS, PH.D.
WILLIAM R. RICHTER
ROBERT E. AYCOCK
JENS C. JENKINS
MICHAEL B. DODD
BRETT A. HANSEN
BRETT I. JOHNSON
KEVIN W. STINGER
SARA D. JONES
TIGE KELLER
JANNA L. JENSEN
MATTHEW D. TODD
J. LAVAR OLDHAM
MICHAEL J. FRODSHAM
MATTHEW A. BARLOW
WESLEY C. ROSANDER
ANDREW S. HANSEN
CHAD E. NYDEGGER
JOSEPH G. PIA
CLINTON E. DUKE
RYAN N. FARR
JAMES B. BELSHE
KIRK R. HARRIS
MICHAEL M. BALLARD
DAVID A. JONES
SHANE K. JENSEN
JONATHAN M. BENNS, PH.D.
SCOTT A. WOODBURY
JOHN T. GADD
MARK W. FORD
COLBY C. NUTTALL
AARON M. SMITH
F. CHAD COPIER §
KULANIAKEA FISHER
THOMAS M. BONACCI
PAUL G. JOHNSON
AMBER B. LEAVITT
JEFFERY M. LILLYWHITE
HEATHER MANWARING

VERNON R. RICE §
OF COUNSEL

* Admitted only in California
§ Admitted only in Virginia

WORKMAN | NYDEGGER
INTELLECTUAL PROPERTY ATTORNEYS

1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111
TELEPHONE: (801) 533-9800
FAX: (801) 328-1707
WEBSITE: HTTP://WWW.WNLAW.COM

OIPE
FEB 23 2007
PATENT & TRADEMARK OFFICE

PATENT
Docket No. 13768.509

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

	Starbuck et al.
Serial No.:	10/835,823
Filed:	Apr. 30, 2004
For:	INTEGRATED TELEPHONE CALL AND CONTEXT NOTIFICATION MECHANISM
Examiner:	Fan Tsang
Patent No.:	6,977,993 B2
Issue Date:	Dec. 20, 2005

Art Unit
2645

REQUEST FOR A CERTIFICATE OF CORRECTION
UNDER 37 C.F.R. § 1.323

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313–1450

Sir:

In accordance with the provisions of 37 C.F.R. § 1.323 which implement 35 U.S.C. § 255, the Commissioner is respectfully requested to issue a Certificate of Correction to correct mistakes in the above-identified patent. The enclosed Patent Office Form 1050 reflects the desired corrections. Also enclosed please find a check in the amount of $100.00 to cover the costs for issuance of this certificate.

FEB 28 2007

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 23–3178. Duplicate copies of this letter are enclosed.

Dated this 16th day of February, 2007.

Respectfully submitted,

Jens C. Jenkins
Attorney for Patentee
Registration No. 44,803
Customer No. 022913

JCJ:jsb
Docket No. 13768.509
PR0000002039V001

CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, on this 16 day of February, 2007.

Transmitted: REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323, PTO Form 1050 and Check No. 15139 for $100.00

FEB 28 2007

DOC Code: COCIN

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,977,993 B2

Page 1 of 1

APPLICATION NO. : 10/835,823

ISSUE DATE : Dec. 20, 2005

INVENTOR(S) : Starbuck 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 10
Line 20, change "method" to --computer program product--
Line 25, change "method" to --computer program product--
Line 30, change "method" to --computer program product--

MAILING ADDRESS OF SENDER (Please do not use customer number

Jens C. Jenkins, WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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.

FEB 2 8 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

SEP 1 0 2008

OFFICE OF PETITIONS

In re Application of :
ANDREWS et al. :
Application No. 10/835,838 : DECISION ON PETITION
Filed: 04/30/2004 :
Docket No. 60001.0323US01/MS306427.1 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed August 7, 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 July 7, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 4, 2008. On July 30, 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 would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice was not received at the correspondence address of record. Further, petitioner provided the Declaration of Jodi Gandel-Klein, the Docketing Supervisor, who outlined the firm's procedures for handling incoming correspondence from the USPTO. Ms. Gandel-Klein also attested to the fact that a search of the records revealed that the firm did

not receive the Notice of Allowance and Fee(s) Due. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status. No petition fee is required.

This application is being referred to the Technology Center AU 2114 technical support staff for re-mailing the Notice of Allowance and Fee(s) Due of April 4, 2008. The period for paying the issue fee will be reset to expire three (3) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 1022

COPY MAILED

JAN 22 2009

In re Application of :
Jae Koul Kim et al :
Application No. 10/835,849 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 11006-016001 / 2004P06016 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 12, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 13, 2008. *See* MPEP 1215.04.

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

This matter is being referred to Technology Center AU 3737 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

KEVIN FORRESTAL
ADVANCED APPLIED ADHESIVES
10080 WILLOW CREEK ROAD
SAN DIEGO CA 92131

COPY MAILED

MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Mizori et al.	:	
Application No. 10/835,911	:	DECISION ON PETITION
Filed: 30 April, 2004	:	
Attorney Docket No. AAA1100	:	

This is a decision on the petition filed on 19 December, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 December, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 14 September, 2006, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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

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

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

MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Application :
Braun, et al. :
Application No. 10/835,914 : PATENT TERM ADJUSTMENT
Filed: April 30, 2004 :
Dkt. No.: 025737-155111US :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed December 19, 2008.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed September 22, 2008, indicated a PTA to date of 108 days. The instant application for PTA was timely filed December 19, 2008 at the time of payment of the issue fee. Applicants argue that application is entitled to an additional adjustment of 416 days in accordance with 37 CFR 1.702(b).

The correct PTA at the time of the allowance is 108 days, as indicated on the Determination of Patent Term Adjustment under 35 USC 154(b), mailed September 22, 2008.

Applicant does not contest the adjustment of 288 days or the reductions totaling 180 days reflected in the Determination of Patent Term Adjustment under 35 USC 154(b).

Instead, applicants further argue that the application is entitled to an additional adjustment of 416 days. 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.

Applicants further assert that the Office failed to assess a reduction of 56 days in connection with the submission of a request for continued examination (RCE) filed June 19, 2008. A review of the record reveals that the submission of the RCE was not a failure to engage in reasonable efforts to conclude prosecution.

A final Office action was mailed June 20, 2007. A Notice of Appeal was filed December 20, 2007, which resulted in a reduction of 91 days pursuant to 37 CFR 1.704(b). A Notice of Appeal is a proper reply to the final Office action within the meaning of 37 CFR 1.702(b). Thus, the later submission of the RCE on June 19, 2008 does not subject the application to further reduction. Further, the Advisory Action mailed January 22, 2008

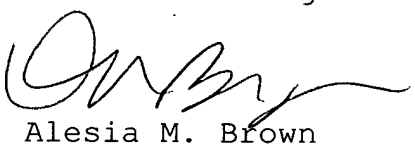
did not set a new period of time for reply to the final Office action.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 108 days (adjustment totalling 288 days less reductions totalling 180 days).

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 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

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

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,557,194
Issued: July 7, 2009
Application No. 10/835,914
Filed: April 30, 2004
Dkt. No.: 025737-155111US

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 421 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 1, 2007 and ends on June 18, 2008, the day before the RCE was filed, and not June 19, 2008, the day of filing of the RCE, as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 415 days, not 416 days. As such, the correct patent term adjustment is 420 days, not 421 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. See, 37 CFR 1.323(a)(4).

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 Corrections 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 **420** days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,557,194

DATED : **July 7, 2009** **DRAFT**

INVENTOR(S) : Braun, 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 315 days

Delete the phrase "by 315 days" and insert – by 420 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MACPHERSON KWOK
CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

COPY MAILED

MAR 17 2008

In re Application of :
Kohli, et al, :
Application No. 10/835,948 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. SIRF.P021.US.C2 :

This is a decision on the renewed petition filed on 29 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

NOTE: The Revocation/Power of Attorney submitted on 22 November, 2004 is acknowledged.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 19 January, 2007, with reply due absent extension of time on or before 9 April, 2007;
- the application went abandoned after midnight 9 April, 2007;
- the Office mailed the Notice of Abandonment on 21 August, 2007;
- on 30 August, 2007, Petitioner filed the instant petition with, *inter alia*, averment of non-receipt—while Petitioner provides a copy of what is averred to be a copy of the docket

sheet of the instant application, Petitioner has ignored the express instructions of the guidance in the Commentary MPEP §711.03 (c) to wit (in pertinent part):

***

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

***

The MPEP is directing Petitioner to present to the Office a copy of the docket report for the due date of the reply, and showing all files with a reply due on that date. Thus, Petitioner can evidence that the Notice in question was not simply misfiled.

Petitioner is cautioned as follows:

- *Petitioner failed to inquire in the roughly 25 months between the filing of the Revocation/Power of Attorney and the 19 January, 2007, Office action as to the Office determination as to that Revocation/Power of Attorney;*

- *Petitioner failed to file within two months of the act complained of (i.e., Notice of Abandonment);*

- *Petitioner apparently was not attentive to the guidance set forth in the Commentary at MPEP §711.03 (c), as to the documents in support of/and the statements required for the showing herein.*

The statutes and rules of practice (e.g., 37 C.F.R. §1.4, §1.8 and §1.10) provide many benefits, avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office.

However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those benefits and protections.

The guidance in the Commentary MPEP §711.03 (c)(I)(C)(3) provides in pertinent part:

***

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

***

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

[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.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 21 August, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2611 for further processing in due course.

---

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

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

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

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

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

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

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

COPY MAILED

MAR 2 4 2008

MACPHERSON KWOK
CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

In re Application of :
Kohli, et al, :
Application No. 10/835,948 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. SIRF.P021.US.C2 :

This is a supplemental decision on the petition filed on 29 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and merely clarifies that decision as to the mailing of the Office action to an incorrect address.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 19 January, 2007, with reply due absent extension of time on or before 9 April, 2007;
- the application went abandoned after midnight 9 April, 2007;
- the Office mailed the Notice of Abandonment on 21 August, 2007;
- on 30 August, 2007, Petitioner filed the instant petition with, *inter alia*, averment of non-receipt—while Petitioner provides a copy of what is averred to be a copy of the docket sheet of the instant application, Petitioner has ignored the express instructions of the guidance in the Commentary MPEP §711.03 (c) to wit (in pertinent part):

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

***

The MPEP is directing Petitioner to present to the Office a copy of the docket report for the due date of the reply, and showing all files with a reply due on that date. Thus, Petitioner can evidence that the Notice in question was not simply misfiled.

Nonetheless, the record is clear that, despite the timely Notice of the Office by Counsel as to a Revocation/Power of attorney on 22 November, 2004, the Office mailed the non-final Office action in question to address of former Counsel—that is, to the wrong address.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

---

[2] 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 21 August, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2611 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

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

HOWARD M. COHN
PATENT ATTORNEY LLC
21625 CHAGRIN BLVD #220
CLEVELAND, OH 44122

COPY MAILED

OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Nancy Anne Greco et al :
Application No. 10/835,953 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. FIS920040101US1 :

This is a decision on the petition filed June 20, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed February 13, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 14, 2007.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of :
Malone et al. :
Application No. 10/835,956 : DECISION ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 200311351-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed December 29, 2008. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 30, 2009. A Notice of Abandonment was mailed on August 21, 2009.

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 drawings (2) the petition fee of $1620.00, and (3) a 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 the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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) 272-3215.

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:
Eddy Ying Yin Ho	: DECISION GRANTING
Application No. 10/835,966	: PETITION
Filing: April 29, 2004	:
Attorney Docket No. IR-2233 (2-3959)	:

This is a decision on the petition under 37 CFR 1.10 (d), filed October 25, 2004, requesting that the above-identified application be accorded a filing date of April 29, 2004, rather than the presently accorded filing date of April 30, 2004.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 29, 2004, pursuant to the requirements of 37 CFR 1.10. Applicant is alleging that the date of mailing shown from the Track and Confirm receipt is a U.S. Postal Service (USPS) error and the correct date of mailing is April 29, 2004.

In support, the petition is accompanied by, inter alia, a declaration of Dorothy Jenkins dated October 21, 2004, a bill cycle from March 30, 2004 to April 30, 2004, and a copy of a USPS record styled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing that a package bearing Express Mail label No. EV342603265US was picked up by the USPS from counsel's Office on April 29, 2004.

Since the evidence from the USPS, namely, the Express Mail Pickup Service Statement, corroborates a "date-in" of April 29, 2004, the instant application file is entitled to a filing date of April 29, 2004, and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-12-08 Paper No.: _____

TO SPE OF : ART UNIT 3662 10835968

SUBJECT : Request for Certificate of Correction on Patent No.: 7193557

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

Applicant is requesting that the USPTO [redacted]e rekey (reprint) the patent under CFR 1.322 (b) instead of issuing the usual Certificate of Correction under 37CFR 1.322 (a), apparently because of the extensive nature of the printing errors.

I am approving applicant's request for the rekeyed (reprinted) patent under 37CFR 1.322(b). See page 10 of applicants request for this special request.

Thomas H. Tarcza — SPE

3662 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

Mail Date: 04/20/2010

Applicant	: Doron Shaked	: DECISION ON REQUEST FOR
Patent Number	: 7570831	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/835,969	: OF WYETH
Filed	: 04/29/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 0 5 2007

OFFICE OF PETITIONS

THE GLAD PRODUCTS COMPANY
1221 BROADWAY #2344
OAKLAND CA 94623-1305

In re Application of :
Savicki, et al. :
Application No. 10/835,970 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 492.444 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2007, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 7, 2006. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 8, 2006. The Office mailed a Notice of Abandonment on April 2, 2007.

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

The matter is being forwarded to Group Art Unit 3782 for consideration of the Amendment filed July 31, 2007.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

COPY MAILED

JUL 31 2009

OFFICE OF PETITIONS

In re Application of :
Marcos Ares Blanco, et. al. :
Application No. 10/835,977 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 5681-92900 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 30, 2009, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed September 18, 2008. A Notice of Abandonment was mailed on January 16, 2009.

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 seventeen sheets of replacement drawings containing Figures 1-17; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,510 for payment of the issue fee and $300 for payment of the publication fees submitted on December 2, 2008.

Since the address given in the present petition differs from the address of record, a courtesy copy of this decision is being mailed to the address given in the petition.

Thereafter, all future correspondence will be mailed to the address of record until otherwise instructed.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Robert C. Kowert
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

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 Jeffrey Harris
2592 Westridge Drive
Cameron Park CA 95682

COPY MAILED

AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Harris :
Application No. 10/835,979 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. N/A :
For: A CHEMICAL AND SLUDGE FREE WATER TREATMENT PROCESS

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed July 13, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2006 for failure to reply. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioner has submitted an amendment in reply to the July 13, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 13, 2006 non-final Office action, and the $750.00 petition fee.

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, practitioner 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, practitioner 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.

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 $1,080.00 extension of time fee submitted with the petition on March 2, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center AU 1723 for consideration of the amendment filed on March 2, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: WILLIAM D. WIESE
DUBOIS, BRYANT, CAMPBELL & SCHWARTZ, LLP
700 LAVACA, SUITE 1300
AUSTIN TX 78701

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

DUBOIS, BRYANT, CAMPBELL & SCHWARTZ, LLP
700 LAVACA STREET
SUITE 1300
AUSTIN TX 78701

COPY MAILED

MAY 07 2008

OFFICE OF PETITIONS

In re Application of :
James Jeffrey HARRIS :
Application No. 10/835,979 : ON PETITION
Filed: 4/29/2004 :
Attorney Docket No. Harris7 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 3/28/2008, 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 8/24/2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is 1/25/2008.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $885 extension of time fee submitted with the petition on 3/28/2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-3468.

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 Technology Center AU 1797 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.

for David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 17 2007

OFFICE OF PETITIONS

In re Application of
Patel et al.
Application No. 10/836,005
Filed: 04-30-2004
Attorney Docket No. 426.64

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed March 7, 2006, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on June 8, 2006. On January 5, 2007, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1751.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Tra4demark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-06

Paper No: __

MICHAEL S. GZYBOWSKI
BUTZEL LONG
SUITE 300
350 SOUTH MAIN STREET
ANN ARBOR MI 48104

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Hogan :
Application No.: 10/836,038 :
Filing Date: 30 April, 2004 :
Attorney Docket No. 057888028-0085 :

DECISION

This is a decision on the petition filed on 10 July, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181,and, alternatively, a petition to revive as abandoned due to unavoidable delay and considered under 37 C.F.R. §1.137(a).

NOTE:

Monitoring of the status of applications on Private PAIR and charges or lack thereof to one's deposit account can inform one's management of application responses and provide an indication when mailings of Office actions should be expected and/or if transactions have occurred.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181 because regulatory requirements require the filing of such a petition within two (2) months of the act complained of.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 7 November, 2005, with reply due absent an extension of time on or before 7 February, 2006;

- on 7 February, 2006, Petitioner filed an after-final amendment, which Petitioner as one registered to practice before the Office knew was not of right and the Examiner found that it was not a proper reply and mailed an Advisory Action on 26 April, 2006;

- the instant application went abandoned after midnight 7 February, 2006;

- the Office mailed the Notice of Abandonment on 20 June, 2006;

- on 10 July, 2006, Petitioner filed the instant petition, averred the timely filing of a Notice of Appeal (with fee) on Monday, 8 May, 2006, and with the petition included a request for continued examination and fee and a submission in the form of an amendment in conformance with the regulations at 37 C.F.R. §1.114.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

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

What Petitioner does not say is that Petitioner did not request and did not pay for an extension of time to make timely the filing of the Notice of Appeal on 8 May, 2006.

Petitioner did check a box authorizing without specifying fees under 37 C.F.R. §1.16 and §1.17.

However, Petitioner apparently made no effort to direct the Office's attention to the fact that no fees were charged to Petitioner's deposit account.

That oversight is now corrected.

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]

---

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]

[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.

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[7]

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

---

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

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

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

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

[7] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

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

The commentary at MPEP §711.03(c)[10] provides further guidance to the Petitioner, and the regulations at . And the regulations 37 C.F.R. §1.181 require that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing and 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.

---

[10] 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 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.

* * *

It appears that this issue is moot.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, and the 20 June, 2006, Notice of Abandonment is **vacated**; and , the petition as considered under 37 C.F.R. §1.137(a) is **dismissed as moot**,

The application is released to Technology Center 3600 for further processing in due course. While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of :
Akio Ohba :
Application No. 10/836,039 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 81730 [SC-70019US] :

This is a decision on the petition, filed March 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 February 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2186 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 19, 2008

TO SPE OF : ART UNIT 3732
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/836074 /7396230

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. 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: _____

Melba Bumgarner 11/19/09
Melba Bumgarner

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

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

Mail Date: 06/18/2010

Applicant	: Fred A. Grunewald	: DECISION ON REQUEST FOR
Patent Number	: 7631471	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/836,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1058** 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

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

COPY MAILED

FEB 17 2005

OFFICE OF PETITIONS

In re Application of: :
Robert Haines and Mike Jones :
Application No. 10/836,089 : DECISION DISMISSING
Filed: April 30, 2004 : PETITION UNDER
Attorney Docket No.: 3726.1000-000 : 37 CFR 1.47(b)

This is in response to the Petition Under 37 CFR 1.47(b), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, and be addressed to Petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 30, 2004, without an oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), requiring, inter alia, a properly signed oath or declaration.

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2)

an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks item (6) as set forth above.

Decision

As to item (6), the MPEP provides that "Proof of irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." MPEP 409.03(g).

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney/Advisor
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

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

COPY MAILED

MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of:	:	
Robert Haines and Mike Jones	:	CORRECTED
Application No. 10/836,089	:	DECISION DISMISSING
Filed: April 30, 2004	:	PETITION UNDER
Attorney Docket No.: 3726.1000-000	:	37 CFR 1.47(b)

This is in response to the Petition Under 37 CFR 1.47(b), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, and be addressed to Petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 30, 2004, without an oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), requiring, inter alia, a properly signed oath or declaration.

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2)

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

The petition was dismissed in a Decision mailed February 17, 2005, because Applicant lacked item (6) above. Applicant has since noted via telephone that item (6) was included among the 50 pages of original petition papers filed December 3, 2004.

A further review of the petition papers filed reveals that Applicant is correct. The necessary statement of irreparable harm has been provided; however, the review has also revealed that Applicant lacks item (2) as set forth above. Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 or as allowed by 37 CFR 1.47. A properly executed oath or declaration is required.

Further to this, the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or *the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.* Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat.

> 1973). (Emphasis supplied). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

While it is noted that the petition avers that "the declaration document has been executed by Peter Camber, VP, Operations, of Entuity, Ltd.," no oath or declaration has been located among the petition papers.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney/Advisor
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

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

COPY MAILED

APR 29 2005

OFFICE OF PETITIONS

In re Application of:	:	
Robert Haines and Mike Jones	:	
Application No. 10/836,089	:	DECISION GRANTING
Filed: April 30, 2004	:	PETITION UNDER
Attorney Docket No.: 3726.1000-000	:	37 CFR 1.47(b)

This is in response to the Petition Under 37 CFR 1.47(b), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, Robert Haines and Mike Jones, refuse to join in the application.

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

The application file is being referred to Technology Center Art Unit 1773 for examination in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT HAINES
8 BLAKE HILL AVENUE
LILLIPUT, POOLE, DORSET BH14 8QA
UNITED KINGDOM

In re Application of:
Robert Haines and Mike Jones
Application No. 10/836,089
Filed: April 30, 2004
Attorney Docket No.: 3726.1000-000

LETTER

COPY MAILED

APR 29 2005

OFFICE OF PETITIONS

Dear Mr. Haines:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney/Advisor
Office of Petitions

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

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

MIKE JONES
CHESTNUT HOUSE
HEMPSTEAD, ESSEX CB10 2PE
UNITED KINGDOM

In re Application of: :
Robert Haines and Mike Jones : LETTER
Application No. 10/836,089 :
Filed: April 30, 2004 :
Attorney Docket No.: 3726.1000-000 :

COPY MAILED
APR 29 2005
OFFICE OF PETITIONS

Dear Mr. Jones:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney/Advisor
Office of Petitions

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

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

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Alastair M. REED et al.	:	
Application No. 10/836,094	:	DECISION ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. P0979	:	

This is a decision on the petition, filed December 11, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner request that the Notice of Abandonment mailed prematurely on November 20, 2009 for failure to respond to the Office action mailed December 18, 2008 be withdrawn as petitioner timely filed a response. Petitioner asserts that a Notice of Appeal with a two (2) month extension of time was filed on May 12, 2009. A copy of the electronic acknowledgement receipt was submitted as evidence. Petitioner asserts that an Appeal Brief along with all available extensions was not due to be filed until December 12, 2009.

A review of the Office records indicates that the Notice of Appeal was timely filed with a two (2) month extension of time on May 12, 2009. Furthermore, the Office acknowledges that Appeal Brief along with all available extensions was in fact not due to be filed until December 12, 2009. Accordingly, the notice of abandonment is withdrawn as premature.

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

This application is being referred to Technology Center AU 2624 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 082604

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

OCT - 6 2004

In re Application of:
BRIAN GOBROGGE *et al.*
Serial No.: 10/836,100
Filed: April 30, 2004
Attorney Docket No.: **124692-01601**

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 10, 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 James M. Singer, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed Steven J. Moore, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: STEVEN J. MOORE
PILLSBURY WINTHROP, LLP
FINANCIAL CENTRE
695 EAST MAIN STREET
P.O. BOX 6760
STAMFORD, CT 06904-6760

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Maryann Zunker et al.
Application No. 10/836,102 : ON PETITION
Filed: April 30, 2004
Attorney Docket No.: 1443.158US1

This is a decision on the petition filed February 23, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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.

In response to a Final Office Action mailed May 23, 2006, which set a three month period for reply, an amendment was filed June 12, 2006. By Advisory Action mailed June 30, 2006, however, petitioners were advised that the response did not place the application in condition for allowance. A subsequent response filed November 6, 2006 also did not place the application in condition for allowance and another Advisory Action was mailed November 6, 2006. No additional responses were filed and thus the application became abandoned August 24, 2006. Accordingly, a Notice of Abandonment was mailed February 5, 2007.

Petitioner claims that due to telephonic interviews between the parties and the Examiner of record, and the Examiner noting that either a Notice of Allowance or another Advisory Action would be mailed, a Notice of Appeal was not filed.

Petitioner's arguments have been considered but are not persuasive, especially in the absence of an Interview Summary. In view thereof, petitioners are advised that by law a proper and timely response was required to the Final Office Action. The failure to file a response caused the application to become abandoned.

Applicants are not afforded an opportunity to withhold a written response to an office

communication even based on a conversation and reliance upon that conversation with an office employee.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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

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

LAW OFFICES OF BARRY N YOUNG
260 SHERIDAN AVE
SUITE 410
PALO ALTO CA 94306-2047

COPY MAILED

NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
Frey, et al. :
Application No. 10/836,104 :
Filed: April 30, 2004 : DECISION ON PETITION
Attorney Docket No. E003-1012US0 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed October 17, 2005.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on April 26, 2005. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

The Revocation and Power of Attorney filed November 7, 2005 has been entered. Future correspondence concerning this application will be forwarded to the above address of record.

A "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" is enclosed.

The application is being forwarded to Group Art Uni 2143 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" (1 page)

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

Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 04/20/2010

Applicant	: Michael K. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7647498	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,107	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1657** 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

MAIL

JUL 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREENBERG-TRAURIG
1750 TYSONS BOULEVARD, 12TH FLOOR
MCLEAN VA 22102

In re Application of :
SCHUL, ERAN, et al. :
Application No. 10/836,113 :
Filed: April 30, 2004 :
For: **PORTABLE AUDIO REPRODUCTION SYSTEM** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 7, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

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

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

COPY MAILED

JUL 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Vijay Bhavaraju et al. :
Application No. 10/836,121 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 130209.517 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 11, 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 8, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 8, 2007. Accordingly, the date of abandonment of this application is May 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 payment of the issue fee of $1400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; 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) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file 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 Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: John M. Siragusa
Carson, Gaskey & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, MI 48009

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
attn: VDO - CGO docketing migration
ISELIN NJ 08830

COPY MAILED

JUN 18 2008

In re Patent No. 7,256,566 :
Issue Date: August 14, 2007 :
Application No. 10/836,121 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 130209.517 :

This is a decision on the PETITION TO CORRECT ASSIGNEE UNDER 37 CFR 1.183 filed January 29, 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 **DISMISSED** without prejudice to reconsideration upon the submission of a Certificate of Correction.

Petitioner requests that the patent be corrected to reflect the correct assignee, Siemens VDO Automotive Corporation. Petitioner states that the assignment was recorded March 28, 2007 at Reel/Frame 019077/0840.

Both petitioner's evidence and Office records show that the change of name of assignee of the above-identified application to Siemens VDO Automotive Corporation was submitted for recording in the Office on March 28, 2007 before issuance of the patent on August 14, 2007. This was also prior to payment of the Issue Fee on June 11, 2007.

The patent issued in the name of Ballard Power Systems Corporation, Dearborn MI as stated on the Issue Fee transmittal.

---

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

However, Siemens VDO Automotive Corporation, Auburn Hills, MI acquired Ballard Power Systems Corporation prior to issuance of the patent and recorded the change of name in the US Patent and Trademark Office prior to issuance of the patent. Receipt of the required $130 processing fee and the required $100 certificate of correction fee are acknowledged. Accordingly, the relief requested can be granted.

Unfortunately, the request includes the processing fee and the Certificate of Correction fee, but does not include a Certificate of Correction. As petitioner has failed to fully comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

The Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Siemens VDO Automotive Corporation, as the assignee. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision must accompany the request for a Certificate of Correction.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,256,566 :
Issue Date: August 14, 2007 :
Application No. 10/836,121 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 130209.517 :

This is a decision on the PETITION TO CORRECT ASSIGNEE UNDER 37 CFR 1.183 filed September 25, 2008, which is being treated as a renewed 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 **DENIED.**

By decision mailed June 18, 2008, the initial PETITION TO CORRECT ASSIGNEE UNDER 37 CFR 1.183 filed January 29, 2008 was dismissed without prejudice to reconsideration upon the submission of a Certificate of Correction.

Petitioner had met the requirements for granting of their request that the patent be corrected to reflect the correct assignee, Siemens VDO Automotive Corporation by way of issuance of a certificate of correction. However, petitioner had not provided a certificate of correction for this purpose.

On September 25, 2008, petitioner provided a certificate of correction. However, this certificate of correction was to correct the name of the assignee to Continental Automotive

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Systems US, Inc. Petitioner further stated that the assignment was recorded September 18, 2008.

The instant patent issued August 14, 2007. A request to correct the name of the assignee on the front page of the patent is limited to correction to an assignee of record in the Office at the time of the issuance of the patent, and only to that assignee as named in the records of the Office at the time of the issuance of the patent. At the time of issuance of this patent, the assignee of record in the Office was Siemens VDO Automotive Corporation. The change of name of Siemens VDO Automotive Corporation to Continental Automotive Systems US, Inc. was not recorded until September 18, 2008. The Office does not issue certificates of corrections for such name changes. There was no error in not issuing the patent in the name of Continental Automotive Systems US, Inc. as such company was not the named assignee of record in the Office at the time of issuance of the patent.

Petitioner is not precluded from providing a certificate of correction in the name of Siemens VDO Automotive Corporation.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO CA 94105

COPY MAILED

NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 10/836,133	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MNTI-01011US0	:	

This is a decision on the petition, filed October 17, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 26, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date, will be mailed by the Publishing Division in due course.

This application is being forwarded to Technology Center 2600 for examination in due course.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
PO BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
Hill, et al. :
Application No. 10/836,154 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. :
60001.0254USU1/301750.02

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 29, 2009.

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

The holding of abandonment is **WITHDRAWN**.

The application was held abandoned due to failure to timely reply to the non-final Office action, mailed July 24, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on October 25, 2008. The Office mailed a Notice of Abandonment on March 18, 2009.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office

action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of the firm's replies docketed for a due date of October 24, 2008. An entry for the instant application is absent, supporting the conclusion that the July 24, 2008 Office action was not received.

In view thereof, the petition is granted.

The application is being forwarded to Group Art Unit 2178 for consideration of the Amendment, submitted with the petition on July 28, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II).

[3] Id.

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

SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Vladimir K. Pavlov	: DECISION ON REQUEST FOR
Patent Number	: 7653651	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **717** 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

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of

:

John V. Ondrasik

:

Application No. 10/836,169

: DECISION ON PETITION

Filed: April 30, 2004

:

Attorney Docket No. BVJON1021598

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on December 9, 2005.

The amendment filed March 31, 2006, is noted and made of record.

Deposit account 50-1990 will be charged $750.00 for the instant petition fee.

Deposit account 50-1990 will be refunded $510.00 for the request for extension of time within the third month that was incorrectly paid in application 10/401,341.

The application is being forwarded to Technology Center 3600, GAU 3618 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 12 2008

OFFICE OF PETITIONS

In re Application of :
Mario Kuhn, et. al. :
Application No. 10/836,177 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. EFIM0500 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 14, 2008, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed January 14, 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) under 37 CFR 1.114 with the $810 filing fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on August 14, 2008.

The application file is being referred to Technology Center Art Unit 2625 for further processing in the normal course of business on the amendment filed on July 10, 2008.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 23 2006

Technology Center 2100

Michael J. Dimino
KILPATRICK STOCKTON LLP
607 14th Street N.W., Suite 900
Washington, DC 20005-2018

In re Application of:
Norman D. GEDDES
Application No. 10/836,242
Filed: October 30, 2002
For: METHOD AND SYSTEM FOR PROVIDING INTELLIGENT NETWORK MANAGEMENT

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on a supplemental response filed on April 20, 2006. The supplemental response has been treated as a petition under 37 CFR § 1.181(a) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRATNED**.

This application was held abandoned for failure to timely file a response to the Office action mailed on June 29, 2005. A Notice of Abandonment was mailed on March 15, 2006.

Applicant states that a reply to the non-final Office action was filed on December 15, 2005.

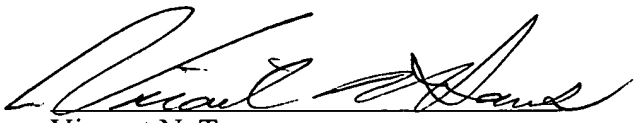
In reviewing the image file, it is noted that papers were timely filed but with an incorrect application serial number 10/863,242. The correct application serial number should be -- 10/836,242 --.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP § 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon, includes name of the inventor, filing date of the application, title of the invention and the name of an examiner in the TC thereon which is deemed sufficient to associate the papers with the instant application. The papers were associated with the instant application after mailing the Notice of Abandonment.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby withdrawn.

The application is being forwarded to the Technology Center support staff to enter the response. The three month extension of time fee $510.00 paid on December 16, 2005 will be credited to the instant application by the Technology Center support staff.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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	: Blake D. Manders	: DECISION ON REQUEST FOR
Patent Number	: 7574655	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,261	: OF WYETH
Filed	: 05/03/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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: 05/18/2010

Applicant : Blake D. Manders
Patent Number : 7574655
Issue Date : 08/11/2009
Application No: 10/836,261
Filed : 05/03/2004

: 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 **770** 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).

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

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

In re Application of:
Stephen Marschner et al.
Application No. 10/836,281
Filed: April 30, 2004
For: FACIAL IMAGE PROCESSING METHODS AND SYSTEMS

DECISION ON PETITION UNDER 37 C.F.R. 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed April 30, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as, figures 7-9, 12-15 and 16a-c 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 was filed with the required fee, three (3) sets of color drawings of Figures 7-9, 12-15 and 16a-c. The specification at page 6 does contain the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Examiner for processing of the amendment filed September 28, 2007.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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

R. Blake Johnston
PIPER RUDNICK LLP
P.O. Box 64807
Chicago, IL 60664-0807

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

In re Application of :
John B. Billingsley, Jr. :
Application No. 10/836,292 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. P6783 (310209-2) : 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 November 14, 2005.

The request is **APPROVED**.

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

The request was signed by R. Blake Johnston behalf of all attorneys of record. All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor John B. Billingsley at the address indicated below.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: John B. Billingsley, Jr.
Worldwide Multimedia Presentations, Inc.
16800 Dallas Parkway, Suite 180
Dallas, TX 75248

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
10/836,292	04/30/2004	John Billingsley	P6783

CONFIRMATION NO. 1533

OC000000019643511

OC000000019643511

R. Blake Johnston
PIPER RUDNICK LLP
P.O. Box 64807
Chicago, IL 60664-0807

Date Mailed: 07/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/14/2005.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-30-07

Paper No.: ____

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction on Patent No.: 7198300 B2 / 10/836300

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.

Please Apply A/S/A/P

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~[illegible]~~

Attorney & Applicant want to know the status

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

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

Comments:

SPE Art Unit

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
DRW Dec-07

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

COPY MAILED

DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Haralampu et al	:	DECISION ON PETITION
Application Number: 10/836321	:	TO WITHDRAW
Filing Date: 04/30/2004	:	HOLDING OF ABANDONMENT
Attorney Docket Number:	:	
BDV013USU	:	

This is a decision on the petition filed on October 17, 2007, under 37 CFR 1.137(b), which, in view of petitioners' statement that a response was timely filed, is treated as a petition to withdraw the holding of abandonment.

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

This application was held abandoned for failure to respond in a timely manner to the Office action requiring restriction and/or election mailed on September 15, 2005, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on March 29, 2006.

Petitioners assert, in pertinent part, that a response to the restriction and/or election requirement was filed, with authorization to charge any required extensions of time to counsel's deposit account, on February 3, 2006.[1]

A review of the record reveals that on February 3, 2006, a election and amendment was filed, along with a transmittal sheet

[1] Petitioners assert that a response was originally filed on October 15, 2005, but contained the wrong application number. The response was filed on February 3, 2006, contained the correct application number and is of record in the file.

that authorized the charging of any additional fees under 37 CFR 1.16 and 1.17 to counsel's deposit account.

As such, the showing of record is that a response to the restriction requirement was timely filed with a four (4) month extension of time. Accordingly, there is no abandonment in fact.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As there is no abandonment, the petition to revive the application is **dismissed as moot**.

A four (4) month extension of time fee is due to make the response filed on February 3, 2006, a timely response to the restriction requirement mailed on September 15, 2005. The fee will be charged against the amount paid for the petition to revive, which is unnecessary and will be credited to counsel's deposit account.

The application file will be referred to Technology Center Art Unit 2855 technical support staff for entry of the response. Thereafter, the application file will be forwarded to the examiner for action in due course.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/7/10

TO SPE OF : ART UNIT 1636 Christopher Low (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/826,323 Patent No.: 7141426

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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:

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

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

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

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Giannetti, Fabio :
Application No. 10/836,337 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. 200309152-2 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed July 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2004. A Notice of Abandonment was mailed on April 7, 2005.

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

This matter is being referred to the Office of Initial Patent Examination for further processing.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 25 2007

OFFICE OF PETITIONS

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

In re Application of :
Warren L. Starkebaum :
Application No. 10/836,354 : DECISION ON PETITIONS
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. P-10145.00US :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3766 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.

Frances Hicks
Petition Examiner
Office of Petitions

cc: Keith M. Campbell
Campbell Nelson Whipps, LLC
408 St. Peter Street, Suite 240
St. Paul, MN 55101

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/836,354	04/30/2004	3766	1770	P-10145.00US	54	6

CONFIRMATION NO. 9559

CORRECTED FILING RECEIPT

OC000000023994215

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Date Mailed: 05/22/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Warren L. Starkebaum, Plymouth, MN;

Assignment For Published Patent Application

Medtronic, Inc., Minneapolis, MN

Power of Attorney: The patent practitioners associated with Customer Number **27581**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/537,070 03/28/2000 PAT 6,853,862
which claims benefit of 60/168,966 12/03/1999

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 US10/836,354

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Heart rate variability control of gastric electrical stimulator

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

COPY MAILED

JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of:	:	
Lawrence et al.	:	LETTER REGARDING
Application No. 10/836363	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/29/2004	:	
Atty Docket No. 12342-21	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed November 6, 2007. Pursuant to patentee's duty of good faith and candor to the Office, applicant requests review of the patent term adjustment of 301 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred twenty-four (224) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 31, 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 three hundred one (301) days.

The Office initially determined a patent term adjustment of three hundred one (301) days based on an adjustment for PTO delay of three hundred twenty-four (324) days pursuant to 37 C.F.R. 1.702(a)(1), reduced by twenty-three (23) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

A further review of the application history reveals that Applicant should have been assessed an additional delay of seventy-seven (77) days pursuant to 37 C.F.R. § 1.704(c)(7). 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following

circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

In this instance, Applicant filed a Request for Continued Examination ("RCE") and Amendment on March 1, 2007. However, the Amendment was non-compliant. Applicant was notified in a Notice of Non-Compliant Amendment. Applicant filed a supplemental reply in the form of an Amendment in response to the Notice of Non-Compliant Amendment, on May 17, 2007. Pursuant to 37 CFR § 1.704(c)(7) the patent term adjustment should have been reduced by seventy-seven (77) days for applicant delay, from March 2, 2007, to May 17, 2007, in filing a reply correcting the omission.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred twenty-four (224) days** (324 days of PTO delay, reduced by 100 (23+77) days of applicant delay), subject to any terminal disclaimer.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 10/836363			
Application Filing Date:	04/29/2004	PTO Delay (PTO):	324
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	23
Post-Issue Petitions:	0	Total PTA (days):	224
PTO Delay Adjustment:	-77		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	01/04/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		77	
54	08/31/2007	MAIL NOTICE OF ALLOWANCE			
53	08/30/2007	ISSUE REVISION COMPLETED			
52	08/30/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	08/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
50	08/30/2007	DOCUMENT VERIFICATION			
49	08/30/2007	NOTICE OF ALLOWABILITY			
48	08/20/2007	DATE FORWARDED TO EXAMINER			
47	08/16/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
46	07/24/2007	MAIL RESTRICTION REQUIREMENT			
45	07/19/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
44	05/21/2007	DATE FORWARDED TO EXAMINER			
43	05/17/2007	RESPONSE AFTER NON-FINAL ACTION			
42	05/17/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
41	05/08/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
40	05/04/2007	MISCELLANEOUS ACTION WITH SSP			
39	03/07/2007	DATE FORWARDED TO EXAMINER			
38	03/01/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
37	03/07/2007	DATE FORWARDED TO EXAMINER			
36	03/01/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		23	28
35	03/07/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
34	03/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

33	03/01/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	01/19/2007	MAIL ADVISORY ACTION (PTOL - 303)			
31	01/16/2007	ADVISORY ACTION (PTOL-303)			
30	01/10/2007	DATE FORWARDED TO EXAMINER			
29	01/05/2007	AMENDMENT AFTER FINAL REJECTION			
28	11/06/2006	MAIL FINAL REJECTION (PTOL - 326)			
27	10/30/2006	FINAL REJECTION			
26	08/24/2006	DATE FORWARDED TO EXAMINER			
25	08/18/2006	RESPONSE AFTER NON-FINAL ACTION			
24	05/19/2006	MAIL NON-FINAL REJECTION	324		-1
23	05/15/2006	NON-FINAL REJECTION			
22	05/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	04/29/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	05/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	08/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	08/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	04/29/2004	REFERENCE CAPTURE ON IDS			
16.7	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/28/2004	APPLICATION RETURN FROM OIPE			
14	07/28/2004	APPLICATION IS NOW COMPLETE			
13	07/28/2004	APPLICATION RETURN TO OIPE			
12	07/26/2004	APPLICATION RETURN FROM OIPE			
11	07/26/2004	APPLICATION IS NOW COMPLETE			
10	07/26/2004	APPLICATION RETURN TO OIPE			
9	07/07/2004	APPLICATION RETURN FROM OIPE			
8	07/07/2004	APPLICATION RETURN TO OIPE			
7	07/07/2004	APPLICATION DISPATCHED FROM OIPE			
6	07/08/2004	APPLICATION IS NOW COMPLETE			
5	06/10/2004	CLEARED BY L&R (LARS)			
4	06/02/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/02/2004	CASE CLASSIFIED BY OIPE			
2	05/21/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

SCHWEGMAN, LUNDBERG & WOESSNER/APPLE
PO BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: David Hayward	: DECISION ON REQUEST FOR
Patent Number	: 7646391	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **604** 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

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

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Application of
Alexander Johnston Lawson et al.
Application No. 10/836,374
Filed: April 30, 2004
Attorney Docket No. **61998-5000**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed June 6, 2007. A response was filed December 6, 2007 with a three month extension of time, but by Advisory Action of January 7, 2008, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, the Notice of Abandonment was mailed January 23, 2008.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that the previously filed amendment be accepted as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1631 for processing of the RCE.

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

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed :November 27, 2007
Patent No. :7,008,165 B1
Ser. No. :10/836381
Inventor(s) :Mark Grimes
Issued :March &, 2006
Title: DOOR LIFTING APPARATUS AND 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 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
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Rankin, Hill, Porter & Clark, LLP
38210 Glenn Avenue
Willoughby, OH 44094-7808

MD/mt

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

NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Application of :
Michael D. Greaves et al. :
Application No. 10/836,386 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 7764 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 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 March 24, 2009. A Notice of Abandonment was mailed on August 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received December 2, 2009.

/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
www.uspto.gov

SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA VA 22314

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of :
Hall, Donald M. :
Application No. 10/836,401 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket: 6340-7 :

This is a decision on the petition under 37 CFR §1.102(d), filed May 3, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

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

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3634 for expedited prosecution.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kevin A. Buford
Holland & Knight LLP
2099 Pennsylvania Ave., N.W.
Washington D.C. 20006

COPY MAILED

AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Gene E. Myers	:	
Application No. 10/836,429	:	DECISION ON PETITION
Filed: April 30, 2004	:	TO WITHDRAW
Attorney Docket No. 061128.00013	:	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 15, 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 Kevin A. Buford

Kevin A. Buford has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action 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

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

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

COPY MAILED

NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerber, Martin T.	:	
Application No. 10/836,433	:	DECISION ON PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1023-451US05/P-21118.00	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed Provisional Application No. 60/459,077, filed March 31, 2003.

The petition is **DISMISSED**.

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

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

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required. No further petition fee 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) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Gerber, Martin T.	:	
Application No. 10/836,433	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1023-451US05/P-21118.00	:	

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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 for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that 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 not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3767 for appropriate action on the amendment submitted July 30, 2007, 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 application.

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
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/836,433	04/30/2004	3767	1134	1023-451US05	33	1

CONFIRMATION NO. 9822

28863
SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

CORRECTED FILING RECEIPT

OC000000025395162

Date Mailed: 08/16/2007

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

Applicant(s)

Martin T. Gerber, Maple Grove, MN;

Assignment For Published Patent Application

Medtronic, Inc., Minneapolis, MN

Power of Attorney: The patent practitioners associated with Customer Number **27581**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/236,578 09/06/2002 ABN
and is a CIP of 10/723,316 11/26/2003
which claims benefit of 60/459,077 03/31/2003
This application 10/836,433
is a CIP of 10/723,903 11/26/2003 ABN
and is a CIP of 10/745,757 12/23/2003 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 US10/836,433

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD, SYSTEM AND DEVICE FOR TREATING DISORDERS OF THE PELVIC FLOOR BY DRUG DELIVERY TO THE PUDENDAL AND SACRAL NERVES

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 04 2009

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of
Paul HOCHSTRATE
Application No. 10/836,443 : PETITION FOR WITHDRAWAL
Filed: April 30, 2004 : OF RESTRICTION REQUIREMENT
For: FIREARM FIRE CONTROL
SELECTOR

This is in response to the petition filed May 27, 2009 petitioning the restriction requirement mailed August 7, 2008. It is also in response to a petition filed August 10, 2007, as well as a renewed petition filed May 6, 2008, petitioning the restriction requirement mailed November 6, 2007.

The petition filed August 10, 2007 and May 6, 2008 are deemed **MOOT.**

The petition filed May 27, 2009 is **DENIED**.

FACTS

On June 21, 2006, the examiner made a requirement for restriction.

On July 24, 2006, applicant filed an election and amended the claims. Applicant contended that all the claims read on the elected grouping.

On October 20, 2006, the examiner mailed a non-final office action withdrawing the claims originally identified as being directed to the non-elected groups. The examiner also considered the election as without traverse and essentially summarized the original requirement.

On February 20, 2007, applicant responded to the office action and again argued the rejection.

On June 13, 2007, the examiner allowed the application and gave applicant 30 days to cancel the non-elected claims.

On August 10, 2007 applicant petitioned the restriction of June 21, 2006.

On November 6, 2007, the examiner made the restriction of June 21, 2006 final. However, the examiner introduced a new requirement for restriction based on applicants amended claims.

On February 14, 2008 a decision was mailed withdrawing the application from issue for consideration of applicant's arguments with respect to the new grounds of restriction.

On May 6, 2008 applicant submitted a renewed petition with respect to the restriction requirement of record as well as a Request for Continued Examination.

On August 7, 2008, a new restriction requirement was mailed.

On November 7, 2008 applicant traversed the restriction requirement.

On February 20, 2009, the examiner made the requirement final.

On May 27, 2009, the instant petition was filed.

DISCUSSION

The petitions submitted on August 10, 2007 and May 6, 2008.

With respect to the petitions submitted on August 10, 2007 and May 6, 2008, these petitions have been rendered moot by the examiner with the mailing of the new restriction requirement on August 7, 2008.

The petition submitted May 27, 2009.

The examiner made a combination/subcombination restriction requirement between Groups I (combination) claims 1, 24-27 and 29-32 and Group II (subcombination) claims 13-23. Any issue regarding Group III, claim 33 has been rendered moot by the cancelling of that claim.

In the requirement, the examiner indicated that the details of the subcombination were not required in the combination. The examiner provided a listing of elements that were not required by the combination. The applicant has not contested this statement. The applicant's petition is solely directed to the examiner's contention and reasoning that the claimed subcombination can be used separately.

To support the assertion that the subcombination has separate utility, the examiner indicated that the subcombination "has separate utility such as a firearm selector in a firearm that does not have a hammer or as a visual training device which does not require a receiver or hammer". Applicant's arguments are directed to the allegation that since the subcombination includes an automatic sear camming surface which has a claimed function of engaging an automatic sear and therefore must be considered as being used with the claimed function when identifying separate utility. Applicant appears to also be arguing that using it on a

firearm other than one having a hammer would be incongruous. This is interpreted as applicant stating that all firearms having automatic sears must have hammers. Additionally, applicant argues that the alternate reason submitted by the examiner, that is, using the subcombination as a visual aid device, is akin to stating that the subcombination can be used as a paperweight.

Not knowing whether or not all firearms which have automatic sears must have hammers, a quick text on the term "sear" was performed which resulted in U.S patent number 2,716,923. This patent serves as evidence that a firearm which includes an automatic sear, does not necessarily require a hammer.

DECISION

Both the examiner and the applicant admit that the use of the automatic camming surface to engage an automatic sear is functional in nature, that is, the automatic sear is not positively claimed structure in the claim. Therefore, the structure must merely be capable of contacting an automatic sear. However as written, the automatic camming surface may also include other camming surfaces in other environments that are capable of contacting automatic sears, but are disclosed as contacting sears or elements which are not considered *automatic* sears. Putting it another way, the language "automatic sear camming surface" does not disclose sufficient structure to limit the element to contacting only automatic sears. That is, the term "automatic" does not provide any structure to the claim to limit the sear since it appears this term does not define structure but merely defines how the sear is intended to be used. Additionally, even if it were, it has been shown that automatic sears do no equate to only weapons having hammers. Since this decision agrees with the examiner's first point, there is no need to address the issue of the examiners alternative utility of a visual aid device.

Applicants petition filed May 27, 2009 is DENIED. The applicant will remain in its present status.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Katherine Matecki, Director
Technology Center 3600
(571) 272-5250

TC

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
10/836,448	04/29/2004	3621	1050	020431.1332	3	26	5

CONFIRMATION NO. 9791

CORRECTED FILING RECEIPT

OC000000013600646

05073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Date Mailed: 08/20/2004

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)

Koray Dogan, Boston, MA;
Adeel Najmi, Plano, TX;
Mehdi Sheikhzadeh, Irving, TX;
Ramesh Raman, San Carlos, CA;

Assignment For Published Patent Application

i2 Technologies US, Inc.;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/470,068 05/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/02/2004

Projected Publication Date: 12/02/2004

Non-Publication Request: No

Early Publication Request: No

Title

Determining an inventory target for a node of a supply chain

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).

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

JUL 12 2004

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:
Edwin L. Adair	:
Serial No.: 10/836,453	: PETITION TO MAKE SPECIAL
Filed: April 30, 2004	:
Attorney Docket No.: 7018-28-CIP3	:

This is in response to applicants' petition filed April 30, 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

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

JUL 12 2004

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:
Edwin L. Adair	:
Serial No.: 10/836,454	: PETITION TO MAKE SPECIAL
Filed: April 30, 2004	:
Attorney Docket No.: 7018-28-CIP4	:

This is in response to applicants' petition filed April 30, 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

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

MAY 30 2006

In re Application of: SLOBODIN ET AL
Application No. 10/836,459
Filed: 04/30/2004
Attorney Docket No. **107773-136750**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR δ 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 δ 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 04/17/2006, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 15 2004

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of
Edwin L. Adair
Serial No.: 10/836,464
Filed: April 30, 2004
Attorney Docket No.: 7018-28-CIP2

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed April 30, 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

04-15-05 IFW-30

APR 14 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rupert Binnig et al.

Serial No: 10/836, 474 Art Unit: 1724 Prince

Filing Date: April 30, 2004 Law Office:

Title: METHOD AND APPARATUS FOR ANAEROBIC DIGESTION OF BIOMASSES AND GENARATION OF BIOGAS

April 12, 2005 Attorney's docket No.: OBE218T5

TRANSMITTAL LETTER

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

SIR:

Transmitted herewith for filing is:

<X> **Petition to Make Special** dated April 9, 2005

(X) The Commissioner is hereby authorized to charge any fees under 37 C.F.R. 1.16, 1.17 and 1.18 or any additional fees which may be required during the entire pendency of the application, or credit any overpayment, to Acct. No.11-O224. A duplicate copy of this sheet is enclosed. If and only if account funds should be insufficient, immediately contact our associate, Lisa Zumwalt, at (703)415-0579, who will pay immediately to avoid deprivation of rights.

( )Please charge my Deposit Account No.11-O224 in the amount of $_____. A duplicate copy of this sheet is enclosed.

A signature or signatures required for the above recited document(s) is (are) provided herebelow. Such signature(s) also provide(s) ratification for any required signature appearing to be defective in the above recited document(s).

Horst M. Kasper

Horst M. Kasper, 13 Forest Drive, Warren, N.J.O7O59
Reg. No. 28,559 Tel.(908)757-2839

MAILING CERTIFICATION: I hereby certify that this correspondence is being deposited with the United States Postal Service as ~~first~~ class mail in an envelope addressed to Hon. Commissioner for Patents,Alexandria, Virginia 22313-1450 on APR 14 2005

Signature: Horst M. Kasper Date: APR 14 2005

**pt0:transt(OBE218T5(April 12, 2005 (ma

* EXPRESS MAIL LABEL NO. TB 381 486 543 45

PETITION GRANTED

Richard Crispino

Richard Crispino
Special Program Examiner
TC 1700 APR 27 2005

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 PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Jinxing Ji, et al. :
Application No.: 10/836,480 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No.: 4764-24-DIV-1 :

This is a decision on the petition, filed January 17, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 1742 for further processing of the request for continued examination under 37 CFR 1.114 filed January 17, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/836,480	04/30/2004	Jinxing Ji	4764-24-DIV-1	1599

22442 7590 01/13/2010

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER	
YANG, JIE	

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
01/13/2010	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10836480	4/30/2004	JI ET AL.	4764-24-DIV-1

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER
JIE YANG

ART UNIT	PAPER
1793	20100112

DATE MAILED:

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

Commissioner for Patents

The petition for review the document (non-patent literature) No. 202 (Ter-Arakelyan, K.A. et al, Technological Expediency of Sodium Thiosulphate for the Extraction of Gold from Ores, Soviet Non-Ferrous Metals Research, Vol.12, No.5 (1984), pp.393-397) in the IDS filed on 1/7/2010 has been considered and the document has been recorded. The other documents listed in IDS filed on 1/7/2010 have been crossed out since they duplicate the same documents listed in the IDS filed on 4/30/2004. The signed IDS is attached with this communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-2701884. The examiner can normally be reached on IFP.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-2721244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Roy King/
Supervisory Patent Examiner, Art Unit 1793

/JieYang/

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

MAY 23 2005

David P. Lhota
STEARNS WEAVER MILLER, et al.
200 East Broward Boulevard
Suite 1900
Fort Lauderdale, FL 33301

In re application of : **DECISION ON PETITION**
Deborah Runge : **TO MAKE SPECIAL**
Application No. 10/836,496 : **(INFRINGEMENT)**
Filed: April 30, 2004 :
For: STEP DEVICE AND SYSTEM FOR DOMESTIC PETS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 06, 2005 to make the above-identified application special.

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

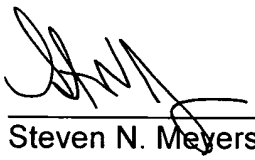
MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method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

The petition filed May 06, 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 April 30, 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.



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

SNM/pav: 05/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID P. LHOTA, ESQ.
STEARNS, WEAVER, WEISSLER, ALHADEFF & SITTERSON, P.A.
NEW RIVER CENTER
200 EAST LAS OLAS BOULEVARD
SUITE 2100
FORT LAUDERDALE FL 33301

COPY MAILED

MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Deborah Runge :
Application No. 10/836,496 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 4913.001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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. 11/604,587.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUNG-HUA KUO ATTORNEY AT LAW
C/OINTELLEVATE
P O BOX 52050
MINNEAPOLIS MN 55402

COPY MAILED

SEP 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Batra, et al.	:	
Application No. 10/836,497	:	DECISION ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. INTCP012	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 23, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment, mailed March 27, 2007. This Notice set an extendable period for reply of one (1) month. A Notice of Abandonment was mailed on May 23, 2007, stating that no response had been received.

A review of the application file reveals the presence of an Amendment filed on May 2, 2007. The Amendment was made timely by including a Certificate of Mailing dated April 27, 2007. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 2186 for consideration of the Amendment filed May 2, 2007 (Certificate of Mailing dated April 27, 2007).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/30/2010

Applicant	: Vesselin P. Mitrov	: DECISION ON REQUEST FOR
Patent Number	: 7624144	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/836,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** 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

R. ANTHONY DIEHL, ESQ.
INSULET CORPORATION
9 OAK PARK DRIVE
BEDFORD, MA 01730

COPY MAILED

JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Luis Malave, et al. :
Application No. 10/836,525 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. INSL-0154 :

This is a decision on the petition under 37 CFR 1.137(b), filed by March 21, 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 12, 2004. The notice required an oath or declaration under 37 CFR 1.63, the requisite surcharge under 37 CFR 1.16(e), and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. On January 5, 2005 applicant filed, inter alia, the declaration and the $65 surcharge; however, applicant did not submit the replacement drawings. Accordingly, on January 27, 2005, a Notice of Incomplete Reply (Nonprovisional) was mailed. In response, on March 21, 2005, the replacement drawings were filed, along with the present petition.

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

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings filed March 21, 2005 and for further processing using the declaration filed January 5, 2005.

Telephone inquires related to this decision may 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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7046141	2006-05-16	10836527	2004-04-30	7002-0003

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	/Stanley A. Kim/	Date (YYYY-MM-DD)	2010-06-09
Name	Stanley A. Kim	Registration Number	42730

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7046141
Issue Date: May 16,2006
Application No. 10836527
Filed: April 30,2004
Attorney Docket No. 7483-1-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 9,2010 . 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.

SPE : M. Huff

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/07

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/836,532 Patent No.: 7135589

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: _____

_____

_____

_____

_____

MARK F. HUFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1756
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

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

In re Patent No. 7,009,945 :
Issue Date: March 7, 2006 :
Application No. 10/836,542 : DECISION GRANTING PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 21676-09041 (CT-111) :

This is a decision on the petition, filed September 22, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 19, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,009,945 on March 7, 2006. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

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
www.uspto.gov

AKERMAN SENTERFITT
P O BOX 3188
WEST PALM BEACH, FL 33402-3188

COPY MAILED

SEP 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Frederick J. Stingel III et al :
Application No. 10/836,543 : DECISION GRANTING PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5184-35CIP :

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed on August 17, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\836543.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN & SIEFFERT PA
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

COPY MAILED

FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Martin T. Gerber :
Application No. 10/836,558 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1023-445US05/P11737.00 :

This is a decision on the petition, filed August 17, 2005, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/459,077, filed March 31, 2003.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

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.

A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980),

where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment to the specification present on the filing date of the application. For applications filed prior to September 21, 2004, the incorporation by reference statement may also appear in a transmittal letter present on the filing date of the application. *See* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement as to provisional Application No. 60/459,077, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

---

[1] *Note* 37 CFR 1.121

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN & SIEFFERT PA
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

COPY MAILED
MAY 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Martin T. Gerber :
Application No. 10/836,558 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1023-445US05/P11737.00 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the additional benefit of prior-filed provisional Application No. 60/459,077, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) 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 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 in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the 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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1668 for appropriate action on the amendment submitted March 28, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/459,077, filed March 31, 2003.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CONLEY ROSE, P.C.
David A. Rose
600 TRAVIS
SUITE 7100
HOUSTON, TX 77002

Mail Date: 05/14/2010

Applicant	: Klaus Biester	: DECISION ON REQUEST FOR
Patent Number	: 7615893	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/836,559	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **297** 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

CONNOLLY BOVE LODGE & HUTZ, LLP
P.O. BOX 2207
WILMINGTON, DE 19899

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Kemp, et al. :
Application No. 10/836,567 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. IR-6895-00 :

This is a decision on the petition filed October 25, 2004, requesting that the above-identified application be accorded a filing date of April 30, 2004, including Figure 13B as described in the specification.

The application was filed on April 30, 2004. However, on July 7, 2004, the Office of Initial Patent Application mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 13B as described in the specification appears to have been omitted.

In response, on October 25, 2004, the instant petition was submitted. Petitioner asserts that Figure 13B was submitted with the original drawings. Petitioner states, "the originally-filed application included Fig. 13, but showed two pictures, as shown in the attached Replacement Sheet. As described in the specification of the present application, Applicants intended to caption Fig. 13 as Figs. 13A and 13B, as shown in the attached Replacement Sheet."

Petitioner has submitted a corrected drawing sheet in which the Figures previously labeled as Figure 13 are correctly identified as Figure 13A and Figure 13B.

In view of the above, it appears that the drawing of Figure 13B was present on April 30, 2004, but mislabelled by applicants. Since it is now clear that Figure 13B was present on April 13, 2004, albeit mislabeled, the Figure may be considered as filed with the application on April 30, 2004.

The petition is granted.

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 30, 2004, and using the drawing containing Figure 13B, submitted on October 25, 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

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

COPY MAILED

FEB 2 5 2009

OFFICE OF PETITIONS

In re Application of :
Chen Su, et. al. :
Application No. 10/836,571 : DECISION ON PETITIONS
Filed: May 1, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.586 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 29, 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 petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1655 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/836,571	05/01/2004	1655	900	10209.586	20	3

CONFIRMATION NO. 1969

CORRECTED FILING RECEIPT

21999
KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

OC000000034700041

Date Mailed: 02/24/2009

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)

Chen Su, West Jordan, UT;
Brett Justin West, Orem, UT;
Afa Kehaati Palo, Orem, UT;
Anne Hirasumi-Kim, Mililani, HI;
Claude Jarakae Jensen, Cedar Hills, UT;
Stephen P. Story, Apline, UT;

Power of Attorney:

Laurence Hobbes--29651
Berne Broadbent--30550
David Westerby--30900
Todd Zenger--33610
Michael Krieger--35232
Kenneth Horton--39481
Daniel Thomson--43189
Julie Gheem--47592
Alexis Nelson--52321

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/467,723 05/02/2003
and is a CIP of 10/285,359 10/31/2002 PAT 7,033,624
which claims benefit of 60/335,343 11/02/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/836,571**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Morinda citrifolia-based formulation for inhibiting metastasis of carcinogenic cells

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/21/2010

Applicant	: Junwei Hou	: DECISION ON REQUEST FOR
Patent Number	: 7599821	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,575	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **349** 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

JANET P. SCHAFER
SCHAFER LAW OFFICE, P.A.
727 TORCHWOOD CIRCLE
NEW BRIGHTON, MN 55112-2538

COPY MAILED

APR 17 2007

OFFICE OF PETITIONS

In re Application of
JOHNSON, Bryan
Application No. 10/836,579
Filed: May 01, 2004
Attorney Docket No. **347.00020101**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to SCHAFER LAW OFFICE, P.A., has been revoked by the assignee of the patent application on February 09, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MUETING, RAASCH & GEBHARDT, P.A.**
P.O. BOX 581415
MINNEAPOLIS MN 55458

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.
10/836,579	05/01/2004	Bryan Johnson	347.00020101	3076

26813 7590 09/24/2008
MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

EXAMINER	
WUJCIAK, ALFRED J	

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
09/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Janet Schafer
Schafer Law Office, P.A.
727 Torchwood Circle
New Brighton, MN 55112-2538

Paper No. 20080923

In re Application of
Bryan Johnson
Application No. 10/836,579
Filed: May 1, 2004
For: MOBILE PAINT RACK

: DECISION ON PETITION
: UNDER 37 CFR §1.84

This is a decision on the petition under 37 CFR 1.84, filed May 1, 2004, for acceptance of color drawings in the above identified application.

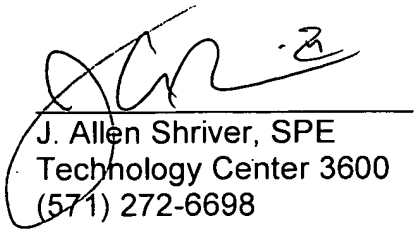
The petition is **DENIED**.

Petitioner requests acceptance of color drawings under 37 CFR 1.84. A petition under 37 CFR 1.84 must include (i) the fees set forth in § 1.17(h); (ii) three (3) sets of color drawings; and (iii) an amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings: *The patent or application files contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.*

Petitioner has provided the required fee and the three (3) sets of color drawings as required, however, Petitioner has failed to amend the specification by inserting the required language into the first paragraph of the brief description of the drawings as required in 37 CFR 1.84 (a)(2)(iii). Therefore, the petition is denied.

This application is being forwarded to Publishing for processing into a patent.

Any questions regarding this letter should be directed to J. Allen Shriver at (571) 272-6698.



J. Allen Shriver, SPE
Technology Center 3600
(571) 272-6698

jas/jas: 9/23/08

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.
10/836,579	05/01/2004	Bryan Johnson	347.00020101	3076

26813 7590 09/24/2008

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

EXAMINER	
WUJCIAK, ALFRED J	

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
09/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE
SEP 23 2008
TECHNOLOGY CENTER 3600

Janet Schafer
Schafer Law Office, P.A.
727 Torchwood Circle
New Brighton, MN 55112-2538

Paper No. 20080923

In re Application of
Bryan Johnson
Application No. 10/836,579
Filed: May 1, 2004
For: MOBILE PAINT RACK

: DECISION ON PETITION
: UNDER 37 CFR §1.84

This is a decision on the petition under 37 CFR 1.84, filed May 1, 2004, for acceptance of color drawings in the above identified application.

The petition is **DENIED**.

Petitioner requests acceptance of color drawings under 37 CFR 1.84. A petition under 37 CFR 1.84 must include (i) the fees set forth in § 1.17(h); (ii) three (3) sets of color drawings; and (iii) an amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings: *The patent or application files contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.*

Petitioner has provided the required fee and the three (3) sets of color drawings as required, however, Petitioner has failed to amend the specification by inserting the required language into the first paragraph of the brief description of the drawings as required in 37 CFR 1.84 (a)(2)(iii). Therefore, the petition is denied.

This application is being forwarded to Publishing for processing into a patent.

Any questions regarding this letter should be directed to J. Allen Shriver at (571) 272-6698.

J. Allen Shriver, SPE
Technology Center 3600
(571) 272-6698

jas/jas: 9/23/08

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTOR'S OFFICE

NOV 29 2006

TECHNOLOGY CENTER 3600

Jordan and Hamburg LLP
122 East 42nd Street
New York NY 10168

Paper No. 11272006

In re Application of	:	Petition for Supervisory Review under
Claudia Schwaar et al	:	37 C.F.R 1.181
Application Number 10/836,594	:	
Filed: April 30, 2004	:	
For: DEVICE FOR THE DISPLACEMENT AND/OR	:	
POSITIONING OF AN OBJECT IN FIVE AXES	:	

This is in response to applicant's Petition under 37 C.F.R. 1.181 filed on April 12, 2006 to have the supplemental after final amendment entered.

The petition is **DISMISSED** as moot. An additional supplemental after final amendment was filed on April 28, 2006 which placed the application in condition for allowance. Since the application has been allowed and has issued as patent number 7,104,746 the petition is **moot**.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen Lillis at (571) 272-6928.

Kathy Matecki
Acting Director
Patent Technology Center 3600
571-272-5350

edl/kd

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

COPY MAILED

DEC 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,535,885	:	
Horneman et al.	:	
Issue Date: May 19, 2009	:	DECISION ON REQUEST FOR
Application No. 10/836,620	:	RECONSIDERATION OF
Filed: May 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0391	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed July 8, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from one thousand seventy-seven (1,077) days to one thousand four hundred three (1,403) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 1,077 days.

On May 19, 2009, the above-identified application matured into U.S. Patent No. 7,535,885 with a revised patent term adjustment of 1,077 days. The Office determined that the 747 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1] overlap with the 1,090 days of Office delay,[2] pursuant

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the

to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment for Office delay of 1,090 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 13 days of applicant delay, the patent issued with a revised patent term adjustment of 1,077 days.

On July 8, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 1,403 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees do not dispute that the total period of Office delay is the sum of the period

---

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.

[2] A nonfinal Office action was mailed on June 27, 2008, 14 months and 1,090 days after the application was filed on May 3, 2004.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

of Three Years Delay (747 days) and the period of Examination Delay (1,090 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and (B) overlap by 421 days as they occur on the same calendar days in both period. Patentees maintain that the total non-overlapping period of Office delay is 1,416 days as these periods do not occur on the same days. Given the 13 days of applicant delay, patentees assert entitlement to 1,403 days of patent term adjustment.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

---

[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR . § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on May 3,

2004, and ending on the date of issuance of the patent on May 19, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1,090 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 747 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 747 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,090 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 747 days and the 1,090 days is neither permitted nor warranted. 1,090 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 747 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,077 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

APR 29 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,535,885	: DECISION ON REQUEST FOR
HORNEMAN et al.	: RECONSIDERATION OF
Issue Date: May 19, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/836,620	: AND
Filed: May 3, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 088245-0391	: CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on January 28, 2010,[1] 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 four hundred three (1403) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred three (1403) days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred three (1403) 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

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed December 3, 2009.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,535,885 B2

DATED : May 19, 2009 **DRAFT**

INVENTOR(S) : HORNEMAN 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 1077 days

Delete the phrase "by 1077 days" and insert – by 1403 days--

Day : Wednesday

PALM INTRANET

Date: 4/28/2010
Time: 12:23:51

PTA Calculations for Application: 10/836620			
Application Filing Date:	05/03/2004	PTO Delay (PTO):	1090
Issue Date of Patent:	05/19/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	13
Post-Issue Petitions:	0	Total PTA (days):	1403
PTO Delay Adjustment:	326		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	04/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	326		
67.5	04/29/2009	PTA 36 MONTHS			
67	05/19/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
66	04/14/2009	EXPORT TO FINAL DATA CAPTURE			
65	04/13/2009	DISPATCH TO FDC			
64	04/10/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
63	04/13/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
62	04/10/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
61	04/03/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		11	63
60	04/03/2009	ISSUE FEE PAYMENT VERIFIED			
59	04/03/2009	ISSUE FEE PAYMENT RECEIVED			
58	03/06/2009	FINISHED INITIAL DATA CAPTURE			
57	01/09/2009	EXPORT TO INITIAL DATA CAPTURE			
56	01/05/2009	MAIL NOTICE OF ALLOWANCE			
55	01/04/2009	ISSUE REVISION COMPLETED			
54	01/02/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
53	01/02/2009	DOCUMENT VERIFICATION			
52	01/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	01/02/2009	CASE DOCKETED TO EXAMINER IN GAU			
50	12/22/2008	NOTICE OF ALLOWABILITY			
49	10/18/2008	DATE FORWARDED TO EXAMINER			
48	09/29/2008	RESPONSE AFTER NON-FINAL ACTION		2	47

47	06/27/2008	MAIL NON-FINAL REJECTION	1090		-1
46	06/23/2008	NON-FINAL REJECTION			
41	10/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	06/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	04/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
35	10/22/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
33	10/17/2007	CORRESPONDENCE ADDRESS CHANGE			
32	10/16/2007	FLAGGED FOR 5/25			
31	10/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
30	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	02/13/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	10/07/2005	REFERENCE CAPTURE ON IDS			
26.7	10/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	10/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/07/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24	02/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	09/08/2004	TRANSFER INQUIRY TO GAU			
22	08/17/2004	APPLICATION RETURN FROM OIPE			
21	08/17/2004	APPLICATION RETURN TO OIPE			
20	08/17/2004	APPLICATION RETURN FROM OIPE			
19	08/17/2004	APPLICATION RETURN TO OIPE			
18	08/17/2004	APPLICATION RETURN FROM OIPE			
17	08/17/2004	APPLICATION IS NOW COMPLETE			
16	08/17/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	08/17/2004	APPLICATION RETURN TO OIPE			
14	08/16/2004	APPLICATION RETURN FROM OIPE			
13	08/16/2004	APPLICATION RETURN TO OIPE			
12	08/13/2004	APPLICATION RETURN FROM OIPE			
11	08/16/2004	APPLICATION IS NOW COMPLETE			
10	08/13/2004	APPLICATION RETURN TO OIPE			

8	08/11/2004	APPLICATION RETURN FROM OIPE			
7	08/11/2004	APPLICATION RETURN TO OIPE			
6	08/10/2004	APPLICATION DISPATCHED FROM OIPE			
5	08/11/2004	APPLICATION IS NOW COMPLETE			
4	08/04/2004	CLEARED BY OIPE CSR			
3	08/04/2004	CASE CLASSIFIED BY OIPE			
2	07/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/03/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Attorney Docket No.: 2267.894US01

Bhatt, et al. 10/836634

Application No.: New Patent Application 1732

Filed: April 30, 2004

For: METHODS FOR CONTINUOUSLY PRODUCING SHAPED ARTICLES

PETITION TO MAKE APPLICATION SPECIAL
UNDER 37 C.F.R. §1.102(c)

Mail Stop PATENT APPLICATIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to make the above-identified and enclosed non-provisional patent application special under 37 C.F.R. §1.102(c) and per the requirements of MPEP 708.02, paragraph VI (Energy). No fee is required for this petition.

Applicant submits that the invention materially contributes to the development of energy resources or the more efficient utilization and conservation of energy resources in that it relates to apparatus and methods for improving efficiency and lowering the cost of fuel cell technology, including hydrogen fuel cell technology.

In view of the foregoing, Applicant respectfully submits the pre-requisites for special status, per MPEP 708.02, paragraph VI (Energy), have been met and that the requirements for

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

OCT 2 0 2005

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

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Huy et al.	:	
Application No. 10/836,647	:	DECISION REFUSING STATUS
Filed: April 30, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. MML 301	:	
Title: Hand- Crankable Water Guns	:	
	:	

This is in response to the petition filed January 10, 2005, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on April 30, 2004, without an executed oath or declaration. Accordingly, on July 7, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of September 7, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), rule 47 applicant has failed to show that inventor McBride was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition indicates only the declaration and the assignment attorney were presented.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

JUL 07 2005

OFFICE OF PETITIONS

In re Application of
Gerhart Huy, Anthony Wyzen, Burton Trattner,
John David McBride Jr., and Truman John Gilbert
Application No. 10/836,647
Filed: April 30, 2004
Attorney Docket Number: MML 301
Title of Invention: HAND-CRANKABLE WATER GUNS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 22, 2005.

The petition is GRANTED.

Petitioner has shown the non-signing inventor McBride has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John David McBride Jr.
305 School Street
Morton, Pennsylvania 19070

COPY MAILED

JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of
Gerhart Huy, Anthony Wyzen, Burton Trattner, John David McBride,Jr. and Truman John Gilbert
Application No. 10/836,647
Filed: April 30, 2004
Attorney Docket Number: MML 301
Title of Invention: HAND-CRANKABLE WATER GUNS

: LETTER

Dear Mr. McBride:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204
Attn: Charles H. DeVoe

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

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of DiFoggio :
Application No. 10/836,675 : Decision on Petition
Filing Date: April 30, 2004 :
Attorney Docket No. 584-34425-US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2006, and supplemented February 2, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 23, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2006. A Notice of Abandonment was mailed on July 26, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will take steps to have the application issued 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

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

SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Svetoslav Manolov	: DECISION ON REQUEST FOR
Patent Number	: 7624115	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **511** 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

SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 05/17/2010

Applicant : Svetoslav Manolov
Patent Number : 7624115
Issue Date : 11/24/2009
Application No: 10/836,681
Filed : 04/30/2004

: 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 **564** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV - 8 2004

MAILED

NOV - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

Bruce A Mawhinney
328 Winnebago Trail
Fort Myers Beach, FL 33931

In re application of
Bruce A. Mawhinney
Application No. 10/836,685
Filed: April 30, 2004
For: PEDAL PUSHER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 30, 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. Mawhinney 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: 11/03/04

SP

PTO/SB/33 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/836,686
Filing Date	4-30-2004
First Named Inventor	Michael L. Weiner
Art Unit	
Examiner Name	
Attorney Docket Number	MLW-677

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 37282

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are as follows: The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule, to wit, CFR Sec. 10.68(b) and as such, withdrawal is mandatory pursuant to 37 CFR Sec. 10.40 (b)(2). There is no outstanding action from the USPTO with a reply due within 60 days.

APPROVED
1/06/06
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Michael L. Weiner				
Address	Biophan Technologies, Inc. 150 Lucius Gordon Drive Suite 215				
City	West Henrietta	State	NY	Zip	14568
Country	United States				
Telephone	(585) 214-2432			Fax	(585) 424-6538
Signature					
Name	Howard J. Greenwald		Registration No.		24,247
Date	September 30, 2005		Telephone No.		(585) 387-0286

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally dismissed.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Svetoslav Manolov	: DECISION ON REQUEST FOR
Patent Number	: 7653628	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,693	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **643** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

NOV - 2 2004

Belasco, Jacobs & Townsley LLP
Howard Hughes Center
6100 Center Drive
Suite 630
Los Angeles, CA 90045

MAILED

NOV - 2 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Stephanie Lin
Application No. 10/836,696
Filed: April 30, 2004
For: SYSTEM FOR ATTACHING DECORATIVE IDENTIFIERS TO APPAREL AND ACCESSORIES

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on April 30, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

In satisfaction of item (B) above, the petitioner states, "Applicant hereby submits that he will make an election without traverse as a prerequisite to the grant of special status should the Office determine that all the claims presented are not obviously directed to a single invention."

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/rwg: 10/30/04

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

MOTOROLA, INC.
CORPORATE LAW DEPARTMENT
SUITE R3163 PO BOX 10219
SCOTTSDALE, AZ 85271-0219

COPY MAILED

NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Wolfe et al. :
Application No. 10/836,706 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. IS01570MCG :

This is a decision on the petition under 37 CFR 1.182, filed August 19, 2004, to correct the title of the application.

The petition is **dismissed as moot**.

The application data sheet correctly lists the title. However, the last word is on the next line. The last word was not entered into the Office's computer system. Since the title is less than 500 characters, and is thus not too long, the omission appears to be the result of a clerical error.

As a courtesy, the Office of Petitions has corrected the title and has not charged a petition fee. However, petitioner should note that a petition is not necessary to correct the title. In the future, correspondence noting the error should be sent to the Office of Initial Patent Examination in the future. If a petition is filed, then a petition fee may be charged to petitioner's deposit account.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/836,715	04/30/2004	David W. Chiasson	C0039	1339

21495 7590 04/04/2005

CORNING CABLE SYSTEMS LLC
P O BOX 489
HICKORY, NC 28603

EXAMINER	
SONG, SARAH U	

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 0305

CORNING CABLE SYSTEMS LLC
P O BOX 489
HICKORY NC 28603

In re Application of:	:	
Chiasson ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/836,715	:	INVENTORSHIP
Filed: April 30, 2004	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: C0039	:	

This is a decision on the petition filed November 1, 2004 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed December 13, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name:

Donald R. Parris

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Sarah Song
Patent Examiner,
Art Unit 2874

John D. Lee
Primary Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 10 2005

Director's Office
Group 3700

Ilya Zhadanovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re application of
S. Zhadanov

Serial Number: 10/836,718
Filed: March 03, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **WASHING DEVICE WITH SPONGE-LIKE WORKING ELEMENT**

This is a decision on the petition filed on April 02, 2005., under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 8/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

MAILED

APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhadanov et al.	:	DECISION ON PETITION
Application No. 10/836,718	:	TO MAKE SPECIAL
Filed: May 3, 2004	:	37 CFR 1.102(C)
Title: Washing Device With Sponge-Like Working Element	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, 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 hereby **DISMISSED AS MOOT.**

Petitioner has previously submitted a petition to make special based on applicant's age on April 2, 2005. The April 2, 2005 petition was granted on August 10, 2005. Petitioner is advised that this application continues to be special throughout its entire prosecution and pendency including interference or appeal.

Further, currently the above-identified application is classified as abandoned. A Notice of Abandonment was mailed to petitioner on March 8, 2006.

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
www.uspto.gov

COPY MAILED
OCT 17 2006
OFFICE OF PETITIONS

LAW OFFICE OF L. JACK GIBNEY
8777 SAN JOSE BLVD.
SUITE 502
JACKSONVILLE, FL 32217

In re Application of :
Jimenez : DECISION ON PETITION
Application No. 10/836,719 :
Filed: April 30, 2004 :
Docket No.: 03-289-PT-ISC :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 24, 2006.

The petition is hereby **GRANTED**.

This application became abandoned February 4, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed November 3, 2005. Notice of Abandonment was mailed March 28, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the 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
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

ALIGN TECHNOLOGY C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

COPY MAILED

MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Davis, et al. :
Application No. 10/836,733 : DECISION ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. AT-000226US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 8, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed August 7, 2007. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on March 19, 2008, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on November 13, 2007. The Amendment was made timely by including a Certificate of Mailing dated November 7, 2007. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3732 for consideration of the Amendment filed November 13, 2007 (Certificate of Mailing dated November 7, 2007).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH,NC 27627

COPY MAILED

JUN 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald R. Laliberte	:	
Application No. 10/836,741	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 04-BS006	:	
(BS040021)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed February 8, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2614 to consider the reply received September 17, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/836,741	04/30/2004	Donald R. Laliberte	04-BS006 (BS040021)

CONFIRMATION NO. 5651

39072
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. BOX 37428
RALEIGH, NC 27627

POA ACCEPTANCE LETTER

OC000000030355665

Date Mailed: 06/06/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

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.

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office of Peter V.D. Wilde
301 East Landing
Williamsburg VA 23185

COPY MAILED

SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of
Zave et al.
Application No. 10/836,780
Filed: 04/30/2004
Attorney Docket No. 1999-0371

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 9, 2007 (certificate of mailing dated April 3, 2007), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2614 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/836,780	04/30/2004	2614	770	1999-0371	19	2

CONFIRMATION NO. 1884

Law Office of Peter V.D. Wilde
301 East Landing
Williamsburg, VA 23185

CORRECTED FILING RECEIPT

OC000000025651319

Date Mailed: 08/31/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Pamela Zave, Chatham, NJ;
Michael A. Jackson, London, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number **26652**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/644,128 08/23/2000 PAT 6,990,185
which claims benefit of 60/154,877 09/20/1999
and claims benefit of 60/166,563 11/19/1999
and claims benefit of 60/199,089 04/21/2000
and claims benefit of 60/204,334 05/15/2000
This application 10/836,780
is a CIP of 10/165,928 06/10/2002 PAT 6,826,275
which is a CON of 09/676,868 09/29/2000 PAT 6,404,878
which is a CON of 09/034,681 03/04/1998 PAT 6,160,883

Foreign Applications

If Required, Foreign Filing License Granted: 01/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/836,780

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Routing extensions for telecommunication network system and method

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

COPY MAILED

JUL 07 2006

OFFICE OF PETITIONS

In re Application of :
Robert Freedman :
Application No. 10/836,788 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 20.2916 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 6, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 10, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HONEYWELL/IFL
Patent Services
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Murali Madhava	: DECISION ON REQUEST FOR
Patent Number	: 7645485	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,791	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1296** 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

WEINGARTEN SCHURGIN GAGNEBIN & LEBOVICI
TEN POST OFFICE SQUARE
BOSTON, MA 02109

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Thomas A. Schmitter et al :
Application No. 10/836,820 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. COMET-009XX :

This is a decision on the petition under 37 CFR 1.182, filed September 17, 2004, to change the order of the names of the inventors.

The petition is dismissed as moot for the reason stated below.

The Office prints the order of the names of the inventors from the first executed declaration. Accordingly, since the declaration filed on October 14, 2004 contains the desired order of the names of the inventors as shown on the filing receipt mailed November 3, 2004. Therefore, the petition is dismissed as involving a moot issue.

The $130.00 petition fee is unnecessary and is being credited to Deposit Account No. 23-0804.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2171 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

SEP 23 2008

OFFICE OF PETITIONS

In re Application of
Schmitter, et al.
Application No. 10/836,820
Filed: April 30, 2004
Attorney Docket No. COMET-009XX
For: CONTEXTUAL ADVERTISING SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 13, 2008, to 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 timely respond in a timely manner to the non-final Office action, mailed December 12, 2007, which set a three (3) month period for reply. A Notice of Abandonment was mailed on July 31, 2008 .

Petitioners assert that a proper response was in fact timely received in the Office on April 11, 2008. In support, petitioner submitted a copy of the petition for a one month extension of time with authorization to charge required fees and amendment, both with a proper certificates of facsimile transmission affixed thereto.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Both the petition for a one month extension of time and the amendment bear a proper certificate of mailing, dated April 11, 2008, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as

set forth above. In addition, the person signing the certificate, an attorney of record, had reasonable basis to expect that the correspondence would be transmitted on April 11, 2008.

In addition, petitioners have submitted an auto-reply facsimile transmission from the Office, showing that the Office received a 28 page document from Attorney Richard E. Gamache on April 11, 2008.

It is apparent the April 11, 2008 facsimile transmission was received in the Office and later misplaced.

Therefore, the response to the December 12, 2007 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 2161 for consideration of the amendment filed on certificate of mailing date April 11, 2008 and resubmitted on July 29, 2008 and August 13, 2008.

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

Rev 02/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application	:	Thomas A. Schmitter et al.
Application No.	:	10/836,820
Filed	:	April 30, 2004
Confirmation No.	:	9273
For	:	CONTEXTUAL ADVERTISING SYSTEM
Examiner	:	Jared M. Bibbee
Attorney's Docket	:	COMET-009XX

TC Art Unit: 2161

* *

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

09/23/2008 CKHLOK 00000058 10836820
01 FC:2251 60.00 CK

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

09/23/2008 CKHLOK 00000097 10836820
01 FC:2251 60.00 DA

Sir:

An office action was mailed by the U.S. Patent and Trademark Office in this application on December 12, 2007. On April 11, 2008, the Applicants timely filed an Amendment by facsimile. A copy of the Amendment filed on April 11, 2008 is submitted herewith as Exhibit A. In response to the filing of the Amendment by facsimile (28 pages) on April 11, 2008, the office of the undersigned counsel received from the U.S. Patent and Trademark Office an Auto-Reply Facsimile Transmission dated April 11, 2008 acknowledging receipt of all 28 pages of the Amendment that was filed on that date. A copy of the Auto-Reply Facsimile Transmission from the United States Patent and Trademark Office

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

Application No.: 10/836,820
Filed: April 30, 2004
TC Art Unit: 2161
Confirmation No.: 9273

Respectfully submitted,

THOMAS A. SCHMITTER ET AL.

By: _____
Victor B. Lebovici
Registration No. 30,864
Attorney for Applicants

Date: 9-13-08

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

VBL/dmc
Enclosures

370412.1

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313

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

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

COPY MAILED

MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Alan Coleman, et al. :
Application No. 10/836,828 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 1-23849 :

This is a decision on the petition under 37 CFR 1.182, filed November 21, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Werner Kermelk
2. Gunter Stelzer
3. Karl Rode
4. Alan Coleman
5. Thomas E. Heck

A Corrected Filing Receipt with the desired change in the order of the names of the inventors is enclosed.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure

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
10/836,828	04/30/2004	3617	1200	1-23849	30	5	1

CONFIRMATION NO. 9262

04859
MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

CORRECTED FILING RECEIPT

OC000000018673702

OC000000018673702

Date Mailed: 05/03/2006

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)

Werner Kermelk, Much, GERMANY;
Gunter Stelzer, Bad Honnef, GERMANY;
Karl Rode, Konigswinter, GERMANY;
Alan Coleman, Southgate, MI;
Thomas E Heck, Monroe, MI;

Power of Attorney: The patent practitioners associated with Customer Number **4859**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/17534 05/31/2002

Foreign Applications

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 US10/836,828

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

FABRICATED VEHICLE WHEEL

Preliminary Class

301

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or

the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

June 20, 2005

Re-mailed on June 21, 2005

David E. Steuber
Silicon Valley Patent Group
2350 Mission College Blvd.
Suite 360
Santa Clara, Ca 95054

In re Application of:
Deva N. Pattanayak
Serial No.: 10/836,833 On Petition
Filing Date: April 30, 2004
For: **SUPER TRENCH MOSFET INCLUDING BURIED SOURCE ELECTRODE AND METHOD OF FABRICATING THE SAME**

In response to the petition received on February 17 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 12, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned September 13, 2004.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts of Nonprovisional Application mailed July 12, 2004.

The applicant was sent a new Notice to File Missing Parts on June 9, 2005, counsel is given 2 months from the date of the notice to respond.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

SEP 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,476,382	:	
Lee et al.	:	DECISION ON APPLICATION
Application No. 10/836,857	:	FOR PATENT TERM ADJUSTMENT
Issue Date: January 13, 2009	:	AND
Filed: April 30, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
16596-002006	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed on March 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred seventy-one (471) days to eight hundred fifty-nine (859) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

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 fifteen (415) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

BACKGROUND

On January 13, 2009, the application matured into U.S. Patent No. 7,476,382, with a revised patent term adjustment of 471 days.

On March 13, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term

asserting that the correct number of days of Patent Term Adjustment is 859 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1094 (650 + 624 - 180 overlap) days as these periods do not occur on the same day.[1]

Patentee does not dispute the periods of reduction of 110 and 26 days, but asserts that an additional period of applicant delay of 56 (63 - 7 overlap) days should be entered. Patentee states that a period of reduction under 37 CFR 1.704(c)(10) should be entered for the filing of an amendment under 37 CFR 1.312 filed after the mailing of the notice of allowance, filed on October 15, 2008. A notice in response to the amendment under 37 CFR 1.312 was mailed on December 16, 2008, 63 days later. Patentee also notes that this period overlaps by seven (7) days with the amendment or other paper filed after the mailing of the notice of allowance filed on September 9, 2008. A response to the amendment under 37 CFR 1.312 filed on September 9, 2008 was mailed on October 21, 2008. The overlapping period under 37 CFR 1.704(c)(10) is that period between the filing of the amendment after the mailing of the notice of allowance mailed on October 15, 2008, and the mailing of the reply, on October 21, 2008, to the amendment after the mailing of the notice of allowance filed on September 9, 2008, or seven (7) days.

Given the revised applicant delay of 235 (179 + 56) days, patentee asserts entitlement to 859 (650 + 624 - 235 - 180) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

---

[1] Patentee notes that the overlapping period is from March 1, 2007 to May 29, 2008.

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[2] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark*

---

[2] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, April 30, 2004, and ending on the date of issuance of the patent, January 13, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 650 days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 624 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 624 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 650 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 650 days and the 624 days is neither permitted nor warranted. The actual number of days issuance of the patent was delayed is 650 days.

Accordingly, at issuance, the Office properly entered 0 days of adjustment pursuant to 37 CFR 1.702(b) for a total of the greater period of 650 days for Office delay.

Patentee additionally asserts that a 56 (63 - 7 overlap) day period of reduction and a 43 day period of reduction should be entered pursuant to 37 CFR 1.704(c)(10) for the filing of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been mailed.

On August 7, 2008, a notice of allowance was mailed. On September 9, 2008, a first amendment under 37 CFR 1.312 was filed. On October 15, 2008, a second amendment under 37 CFR 1.312 was filed. On October 21, 2008, a notice in response to the first amendment under 37 CFR 1.312 was mailed, 43 days after the first amendment under 37 CFR 1.312 was filed. On December 16, 2008, a notice in response to the second amendment under 37 CFR 1.312 was mailed, 63 days after the second amendment under 37 CFR 1.312 was filed.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of the number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper.

Patentee is correct. The filing of the second amendment under 37 CFR 1.312 on October 15, 2008, overlaps with the mailing of the notice in response to the first amendment under 37 CFR 1.312 on October 21, 2008 by 7 days. A 43 (36 + 7) day period of delay was previously entered. It is noted that the Office's entry of reductions of 36 days and seven (7) days are in error, although the calculation of 43 days is correct. The correct periods of reduction are 43 days and 56 (63 - 7 overlap) days. Accordingly, removal of the 36 day and the seven (7) day periods of reduction and entry of a 43 day and a 56 day period of reduction is warranted.

Accordingly, at issuance, the Office should have entered 415 days of patent term adjustment, having considered the 650 days of Office delay and the 235 (179 + 56) days of applicant delay.

CONCLUSION

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks Patentee for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify 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 fifteen **(415)** 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 Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Encl: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,476,382 B2

DATED : January 13, 2009

INVENTOR(S) : Lee 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 (471) days

Delete the phrase "by 471 days" and insert – by 415 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE JC688
AUG 0 9 2004
PATENT & TRADEMARK OFFICE

TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE
HUNTSVILLE, AL 35806

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/338,238 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. TDCO:020 (F.12C) :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in-part" thereof, rather than as a - -continuation - -. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

The instant nonprovisional application was filed after November 29, 2000, and the correct relationship of the benefit claim herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. 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 satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 3662 for appropriate action on the amendment filed May 4, 2004, 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.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAXIMILIAN PETERSON
O'KEEFE, EGAN AND PETERMAN, L.L.P.
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
BULDING C, SUITE 200
AUSTIN, TX 78746

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of
Larry W. Fullerton
Application No. 10/836,859
Filed: April 30, 2004
Attorney Docket No. TDCO:022 (F7)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 12, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to O'keefe, Egan and Peterman 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK ROBERTS
TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE
SUITE 250
HUNTSVILLE, AL 35806

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID M. DRISCOLL
1201 CANTON AVENUE
MILTON, MA 02186

COPY MAILED

FEB 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Alexander L. Butler et al :
Application No. 10/836,864 : DECISION GRANTING PETITION
Filed: May 3, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AO125/7012 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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 Notice to File Missing Parts of Application (Notice) mailed July 8, 2004, which required the submission of $43 for 1 independent claim over 3. The Notice set a period for reply of two (2) months from the mail date of the Notice. No timely reply or extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2004. A Notice of Abandonment was mailed on July 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply ($100 independent claim fee received on February 3, 2006), (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of July 8, 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 further pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

COPY MAILED

OCT 10 2006

OFFICE OF PETITIONS

In re Application of :

WILKINSON, et al. :

Application No. 10/836,871 :
Filed: April 30, 2004 :
Attorney Docket No. MIR0006US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 02, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

/David Bucci/
David Bucci
Petitions Examiner
Office of Petitions

cc: **KOESTNER BERTANI LLP**
18662 MACARTHUR BLVD, SUITE 400
IRVINE, CA 92612

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

KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

Mail Date: 04/21/2010

Applicant	: Mark L. Wilkinson	: DECISION ON REQUEST FOR
Patent Number	: 7596808	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,871	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1552** 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

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Becky J. Gibson	: DECISION ON REQUEST FOR
Patent Number	: 7657844	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1380** 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

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 05/17/2010

Applicant : Becky J. Gibson
Patent Number : 7657844
Issue Date : 02/02/2010
Application No: 10/836,883
Filed : 04/30/2004

: 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 **1476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IPLO-Intellectual Property Law Offices
c/o Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

COPY MAILED

JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
George G. Chadwick :
Application No. 10/836,887 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 60607-300103 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2007, to revive the above-identified application.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael J. Hughes appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and a terminal disclaimer under 37 CFR 1.321 with the $65 fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

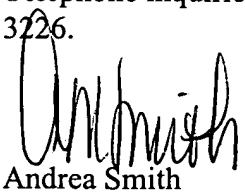
The Office acknowledges receipt of a terminal disclaimer and $65 fee to accompany the instant petition. However, since the application is not a utility or plant application filed on or before June 8, 1995, a terminal disclaimer is not required[1]. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Petitioner may request a refund of this fee by writing to

[1] 37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application.

the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being referred to Technology Center Art Unit 2618 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael J. Hughes
IPLO Intellectual Property Law Offices
1901 South Bascom Avenue – Suite 660
Campbell, CA 95008

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 Dec-07

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

COPY MAILED

DEC 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Stern et al.	:	DECISION ON PETITION TO
Application Number: 10/836896	:	WITHDRAW HOLDING OF
Filing Date: 04/30/2004	:	ABANDONMENT
Attorney Docket Number:	:	
MIT.1024IL	:	

This is a decision on the petition filed on March 1, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a reply to the non-final Office action mailed on August 17, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 29, 2007.

Petitioners assert that the non-final Office action mailed on August 17, 2006, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent practitioner Matthew E. Connors, asserts that he did not receive the Office action dated August 17, 2006. A copy of the docket report where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

It is noted that applicant has filed an amendment in reply to the Office action mailed on August 17, 2006, with the present petition. As such the Office action will not be remailed.

The application file is being referred to Technology Center Art Unit 2878 for consideration of the reply filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Margarit P. Kirov	: DECISION ON REQUEST FOR
Patent Number	: 7640357	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/836,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1252** 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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/836,905	04/30/2004	3764	900	HOME 0782 PUS	5	20	3

CONFIRMATION NO. 2103

22045
BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

UPDATED FILING RECEIPT

OC000000013687130

Date Mailed: 09/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Roman Ferber, West Bloomfield, MI;
Stephen Chung, Taipei, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number **22045**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/836,905

Projected Publication Date: 11/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Portable body massager

Preliminary Class

601

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

COPY MAILED

MAY 18 2006

OFFICE OF PETITIONS

In re Application of :
Martin T. Gerber :
Application No. 10/836,924 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P-21213.00US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be

entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

It is noted that the priority claim to non-provisional applications 10/723,316, 10/723,903 and 10/745,757 was not picked up on filing. Therefore, a corrected Filing Receipt, which includes the priority claim to these prior filed non-provisional applications and prior-filed provisional application 60/459,077, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3762 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Svetlana Stancheva	: DECISION ON REQUEST FOR
Patent Number	: 7584355	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/836,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1283** 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

COPY MAILED

NOV 0 2 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:	
Chong-Sheng Yan et al	:	
Application No. 10/836,953	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 466992001600	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 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 August 9, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1657 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of :
Morris, Malandro, Lai, Tse, and Fattey :
Application No. 10/836,956 : DECISION REFUSING STATUS
Filed: April 30, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 529452003000 :
For: NOVEL COMPOSITIONS AND METHODS IN CANCER

This is a decision on the petition under 37 CFR 1.47(a) February 23, 2005.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on April 30, 2004, and was not accompanied by a properly executed oath or declaration and filing fee. On July 23, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed requiring an executed oath or declaration, payment of the filing fee, payment of surcharge, and a proper sequence listing. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on February 23, 2005, along with a request for an extension of time within the fifth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) above.

As to item (1) sufficient proof was not provided that the entire application was sent to the non-signing inventor, not just the declaration and power of attorney. Guidance as to what is required to be sent to the non-signing before a refusal to sign can be alleged is found in the *Manual of Patent Examining Procedure*, Section 409.03(d) which reads, in pertinent part:

> [b]efore a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

It is not apparent from the instant petition whether petitioner sent the non-signing inventor the entire application for his review and signature. Further, the copies of the cover letters for the correspondence petitioner sent to the non-signing inventor make no mention of the entire application being enclosed. It is, therefore, concluded that item (1) above has not been satisfied. Any renewed petition must be accompanied by evidence that the entire application, including the specification, claims, and drawings, was presented to the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
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

COPY MAILED

JUN 15 2005

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of :
Morris, Malandro, Lai, Tse, and Fattey :
Application No. 10/836,956 : ON PETITIONS
Filed: April 30, 2004 :
Attorney Docket No. 529452003000 :
For: NOVEL COMPOSITIONS AND METHODS IN CANCER

This is a decision on the petition to withdraw the holding of abandonment and the renewed petition under 37 CFR 1.47(a) both filed May 17, 2005.

The petition to withdraw the holding of abandonment is **granted**.

The renewed petition under 37 CFR 1.47(a) is **dismissed.**

TREATMENT OF THE PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The record reflects that the Office of Initial Patent Examination held the subject application abandoned for failure to file a timely reply to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed July 23, 2004. The Notice set an extendable period for reply of two months from its mailing date and required the filing of a proper oath or declaration, a proper sequence listing, and payment of a surcharge. The record reflects that a sequence listing was filed on February 23, 2005, along with a request for an extension of time within the fifth month. The surcharge was also paid on February 23, 2005. A petition under 37 CFR 1.47(a) was also filed on February 23, 2005, although it was dismissed by a decision mailed March 17, 2005. The decision of March 17, 2005, allowed an extendable period for reply of two months from its mailing date. A renewed petition under 37 CFR 1.47(a) was filed on May 17, 2005.

A review of the record did not reveal any defect in the application or failure to meet a deadline that should have resulted in the abandonment of the application as the sequence listing was timely filed, the surcharge was timely paid, and the issue of the applications' status under 37 CFR 1.47 is currently before the Office of Petitions. It is, therefore, concluded that the holding of abandonment was improperly imposed and is withdrawn, accordingly.

TREATMENT UNDER 37 CFR 1.47(a)

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on April 30, 2004, and was not accompanied by a properly executed oath or declaration and filing fee. On July 23, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed requiring an executed oath or declaration, payment of the filing fee, payment of surcharge, and a proper sequence listing. The notice allowed an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on February 23, 2005, along with a request for an extension of time within the fifth month. The petition was dismissed by a decision mailed March 17, 2005. The instant renewed petition was then filed on May 17, 2005.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition again lacks item (1) above.

As to item (1) sufficient proof was not provided that the entire application was sent to the non-signing inventor, not just the declaration and power of attorney. Guidance as to what is required to be sent to the non-signing before a refusal to sign can be alleged is found in the *Manual of Patent Examining Procedure*, Section 409.03(d) which reads, in pertinent part:

> [b]efore a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

It is not apparent from the instant petition whether petitioner sent the non-signing inventor the entire application for his review and signature. Further, the copies of the cover letters for the correspondence petitioner sent to the non-signing inventor make no mention of the entire application being enclosed. It is, therefore, concluded that item (1) above has not been satisfied. **Any renewed petition must be accompanied by evidence that the entire application, including the specification, claims, and drawings, was presented to the non-signing inventor.**

Petitioner is advised that the undersigned is treating this petition as a petition under 37 CFR 1.47(a) when the non-signing inventor is refusing to sign the declaration, albeit a constructive refusal. The undersigned has concluded that the non-signing inventor is not unavailable, i.e., cannot be located, because petitioner was able to make contact with him via his home telephone number. The failure of the non-signing inventor to respond to petitioner's repeated requests to sign the declaration is, therefore, considered a refusal. Petitioner must, therefore, establish that a complete copy of the application papers was sent to the last known address of the non-signing inventor before the non-signing inventor can be said to have refused to join the prosecution of the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
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

Gwilym Attwell
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103

COPY MAILED

JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Morris, Malandro, Lai, Tse, and Fattey :
Application No.: 10/836,956 : DECISION ACCORDING
Filed: April 30, 2004 : RULE 47(a) STATUS
Attorney Docket No: 529452002000 :
For: NOVEL COMPOSITIONS AND METHODS IN CANCER

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 17, 2005.

The decision mailed June 15, 2005, dismissing the renewed petition under 37 CFR 1.47(a) is vacated. petitioner is advised that only the portion of the decision addressing the issues under 37 CFR 1.47(a) is vacated. The portion of the decision relative to the withdrawal of holding of abandonment stands.

The renewed petition is **GRANTED**.

The above-identified application was filed on April 30, 2004, and was not accompanied by a properly executed oath or declaration and filing fee. On July 23, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed requiring an executed oath or declaration, payment of the filing fee, payment of surcharge, and a proper sequence listing. The notice allowed an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on February 23, 2005, along with a request for an extension of time within the fifth month. The petition was dismissed by a decision mailed March 17, 2005. The instant renewed petition was then filed on May 17, 2005.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that inventor Morris has constructively refused to execute the declaration and join 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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

HECTOR SERBER
17 OAKCREST DRIVE
SAN RAFAEL CA 94903

COPY MAILED

DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of :

SERBER, Hector :
Application No. 10/836,964 :
Filed: April 30, 2004 :
Attorney Docket No. **A-72334/RBC 463889-47** :

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 September 24, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: AMERICAN ERGONOMICS CORPORATION
17 OAKCREST DRIVE
SAN RAFAEL, CA 94903

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 : June 23, 2007

Patent No. : 7038488 B1
Application No : 10/836965
Inventor(s) : Tyson
Issued : May 2, 2006
Title : **PROGRAMMABLE LOGIC DEVICE WITH TRANSCEIVER AND RECONFIGURABLE PLL**
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

CBN/eme

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

SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

COPY MAILED

FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Martin T. Gerber :
Application No. 10/836,970 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P-11738.00 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 4, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/459,077, filed March 31, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains an acceptable statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant

application is entitled to the benefit of the filing date of the above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3).

A corrected Filing Receipt,[1] which includes the priority claim to the above-noted, prior-filed provisional application, accompanies this decision on petition.

The Associate Power of Attorney filed on January 19, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the practitioners associated with Customer Number 28863 has **not** been made of record.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3762 for appropriate action on the amendment submitted November 4, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT Corrected Filing Receipt

[1] Although a reference to the prior-filed nonprovisional applications was included in an ADS, transmittal letter, and the first sentence of the specification following the title, reference nevertheless was not included on the filing receipt mailed April 30, 2004.

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
10/836,970	04/30/2004	3762	1818	P-11738.00	18	71	1

CONFIRMATION NO. 2551

28863
SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

CORRECTED FILING RECEIPT

OC000000018125998

Date Mailed: 02/23/2006

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)

Martin T. Gerber, Maple Grove, MN;

Assignment For Published Patent Application

Medtronic, Inc., Minneapolis, MN

Power of Attorney: The patent practitioners associated with Customer Number **27581**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/236,578 09/06/2002
and is a CIP of 10/723,316 11/26/2003
which claims benefit of 60/459,077 03/31/2003
This application 10/836,970
is a CIP of 10/723,903 11/26/2003
and is a CIP of 10/745,757 12/23/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/836,970

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method, system and device for treating disorders of the pelvic floor by electrical stimulation of and the delivery of drugs to the left and right pudendal nerves

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POWER SYSTEMS MANUFACTURING
1440 WEST INDIANTOWN ROAD
SUITE 200
JUPITER, FL 33458

COPY MAILED

FEB 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Vincent C. Martling et al :
Application No. 10/836,971 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. PSM-155 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee and formal drawings in a timely manner in reply to the Notice of Allowance And Fee(S) Due and Notice of Allowability mailed June 27, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee/publication fee and drawings; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee and drawings are accepted as having been unintentional delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

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

COPY MAILED

JUL 15 2009

OFFICE OF PETITIONS

The Procter & Gamble Company
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
Cincinnati, OH 45202

In re Application of
Karl Shiqing Wei, et. al.
Application No. 10/836,984
Filed: April 30, 2004
Attorney Docket No. 9220M

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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 December 11, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 12, 2007. See MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

It is noted that a request to withdraw the notice of appeal was filed on April 3, 2007 without the appropriate extension of time under 37 CFR 1.136(a). Therefore, the application was properly held abandoned and petitioner must submit the proper reply to continue the prosecution of the above application.

Additionally, the present petition fails to contain the registration number of petitioner, Bridget Murray. Petitioner is reminded to include not only a signature, but the registration number on each petition/document filed with the USPTO.

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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Jon Marcus Randall Whitten :
Application No. 10/836,988 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. MSFT-3506/307390.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 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 November 12, 2008. Accordingly, the above-identified application became abandoned on February 13, 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.

With regards to item (1), 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). The petition is not accompanied by the required reply.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

AUG 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Whitten et al.	:	
Application No. 10/836,988	:	DECISION ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. MSFT-3506/307390.01	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed November 12, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 13, 2009. A Notice of Abandonment was mailed June 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00 (previously submitted May 15, 2009); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center 2174 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed on July 2, 2009.

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
www.uspto.gov

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of :
Dahlke et al. :
Application No. 10/837,006 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 2004P06082 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the Notification of Non-Compliant Appeal Brief (Notice) mailed December 21, 2007, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2008. A Notice of Abandonment was mailed July 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1)) the reply in the form of an amended Appeal Brief and required fee of $510.00 (previously paid on November 28, 2007); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, 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 should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center 3676 for processing of the amended Appeal Brief 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
www.uspto.gov

VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY NV 89706

COPY MAILED

MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Pelosi : DECISION ON PETITION
Application No. 10/837,023 :
For: April 29, 2004 :
Atty. Dkt. No.: PEL 04.001 :

This is a decision on the petition under 37 CFR 1.137(a) to revive the above-identified application filed November 29, 2006. This petition is, sua sponte, being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.181 is hereby **GRANTED**.

The application was held abandoned for failure to timely reply to the non-final Office action mailed April 18, 2006. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed November 21, 2006.

Petitioner alleges that a response to the Office communication was timely submitted July 18, 2006 and have provided as proof of timely submission a copy of a date-stamped return postcard as well as a copy of the response.

The original amendment submitted July 18, 2006 has not been located. However, in view of the evidence presented, 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**.

Petitioners submitted $250.00 in connection with the instant petition, however, no fee is required under 37 CFR 1.181. Petitioners may request a refund of the previously submitted petition fee of $250.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be 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

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

WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

COPY MAILED

JUL 08 2008

OFFICE OF PETITIONS

In re Application of :
CROSS, et al. :
Application No. 10/837,024 : DECISION GRANTING PETITION
Filed: May 1, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **13768.783.263.1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 7, 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 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2191 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Brian D. Cross, et. al. :
Application No. 10/837,024 : DECISION ON PETITION
Filed: May 1, 2004 :
Attorney Docket No. 13768.783.263.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2008, 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 December 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 5, 2008. Accordingly, the date of abandonment of this application is December 6, 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 $1,510; (2) the petition fee of $1,620; 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.

In addition to filing a petition to revive on December 17, 2008, petitioner submitted $1,440 for payment of the issue fee. However, effective October 2, 2008 the fee was increased to $1,510. Therefore, as authorized, $70 has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.

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

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

COPY MAILED

JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
David F. Bocian, et al. :
Application No. 10/837,028 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 497T-301710US :

This is a decision on the petition under 37 CFR 1.137(b), filed by May 16, 2005, to revive the above-identified application.

A review of the record discloses that the application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed July 12, 2004. The notice required an oath or declaration under 37 CFR 1.63, the basic filing fees and the requisite surcharge. On February 17, 2005, using a Certificate of Mailing under 37 CFR 1.8 dated February 14, 2005, applicant submitted, *inter alia*, the filing fees, surcharge and a declaration signed by three of the four joint inventors. Consequently, on March 3, 2005, a Notice of Incomplete Reply was mailed. In response, on May 16, 2005, the present petition was filed, along with a declaration under 37 CFR 1.63 containing the signature of the missing inventor.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr : 12-07

COPY MAILED
DEC 10 2007
OFFICE OF PETITIONS

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY & POPEO, P.C.
9255 TOWNE CENTER DRIVE
SUITE 600
SAN DIEGO CA 92121

In re Application of :
Rath :
Application No. 10/837,044 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. 34874-100 UTIL :

This is a decision on the petition filed on 25 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

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."

Thereafter, there will be no further reconsideration of this matter.[2]

---

2 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.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 21 March, 2007, with reply due absent extension of time on or before 21 June, 2007;
- the application went abandoned after midnight 21 June, 2007;
- the Office mailed the Notice of Abandonment on 18 October, 2007;
- on 25 October, 2007, Petitioner filed the instant petition with, *inter alia*, an averment of non-receipt of the Office action in question, however, Petitioner fails to satisfy the showing as described in the guidance in the Commentary at MPEP §711.03 (c), as to the statements of search required for the showing (as discussed below).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

---

paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. ***The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket***

---

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. ***For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.***

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied the showing burdens or the timing requirements herein. (To wit: ***The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received***.)

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
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

---

[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[13] 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 .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER
489 FIFTH AVENUE
NEW YORK NY 10017

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Carl Wittenberg et al	:	
Application No. 10/837,045	:	DECISION GRANTING PETITION
Filed: April 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	
6000.004900/1700	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of November 16, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Rodney Haas and Frederick Gabriel
Application No. 10/837,049
Filed: May 1, 2004
Attorney Docket No. E-14
Title: ELECTRICALLY-OPERATED TEMPERATURE-REGULATED SCENTED WAX WARMER

ON PETITION
UNDER 37 C.F.R. § 1.47(a)

This is in response to the "PETITION TO FILE APPLICATION ON BEHALF OF INVENTOR AND NON-SIGNING JOINT INVENTOR" filed October 8, 2004.

For the reasons set forth herein, the petition is **DISMISSED** without consideration on the merits.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(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 C.F.R. § 1.136(a).

The above-identified application was filed on May 1, 2004, without an executed oath or declaration. The application included an application data sheet, identifying Rodney Haas and Frederick Gabriel as joint inventors. Accordingly, on July 8, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition. Unfortunately, the petition was only accompanied by an authorization to charge to a credit card $180.00. This amount is insufficient to pay the petition fee (then $130 - now $200), extension of time fee (then $55) and late surcharge ($65). No other payment or general authorization to charge required fees was among the papers received in the Office.

To make the response timely, the $55 extension of time fee will be applied from the $180 credit card payment. The remaining $125 is insufficient to pay the petition fee of $130 due at the time of filing of the petition under § 1.47. So, $65 of the $125 will instead be applied to pay the late surcharge. Petitioner is left with a $60 suspended amount which can be applied to the now outstanding amount due of $200 for the petition under § 1.47.

Petitioner is required to timely submit $140 for consideration of the instant petition on the merits.

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:	(703) 872-9306 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

COPY MAILED

AUG 29 2005

OFFICE OF PETITIONS

In re Application of
Rodney Haas and Frederick Gabriel
Application No. 10/837,049
Filed: May 1, 2004
Attorney Docket No. E-14
Title: ELECTRICALLY-OPERATED TEMPERATURE-REGULATED SCENTED WAX WARMER

PETITION REFUSING STATUS UNDER 37 C.F.R. § 1.47(a)

This is in response to the "PETITION TO FILE APPLICATION ON BEHALF OF INVENTOR AND NON-SIGNING JOINT INVENTOR" filed October 8, 2004. This decision is made in light of the paper styled "Supplemental Payment Enclosed" received March 11, 2005. This communication was recently forwarded to the undersigned for consideration[1].

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §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 C.F.R. § 1.136(a).

The above-identified application was filed on May 1, 2004, without an executed oath or declaration. The application included an application data sheet, identifying Rodney Haas and Frederick Gabriel as joint inventors. Accordingly, on July 8, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing

[1] In the original dismissal decision, it was requested that petitioner entitle their response as a "Request for Reconsideration of Petition under 37 C.F.R. § 1.47(a)." This direction was given because the use of such titles (or at minimum the use of the word "Petitions" in the title) aids staff in properly directing such communications to the Office of Petitions for action.

under § 1.16(e). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

By decision mailed March 11, 2005, the petition was dismissed without consideration on the merits for failure to include the full petition fee (then $130). On instant renewed petition, petitioner submitted the fee deficiency to achieve payment of the current petition fee of $200. Accordingly, consideration can now turn to the merits of the petition.

Applicant asserts that status under § 1.47(a) is proper because joint inventor Rodney Haas cannot be found or reached after diligent effort. In support thereof, petitioner provides the last known mailing address and last known email address of inventor Haas. Attorney Call certifies that several attempts were made to reach inventor Haas by email. However, inventor Haas has not responded.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

The attempts shown to locate or reach inventor Haas are not sufficient to show diligent effort, nor under the circumstances, can inventor Haas' failure to respond be deemed a refusal by conduct to join in the application. It is acknowledged that in the past email communication may have been successful. However, the past experience is not sufficient to show that it has been successful in reaching inventor Haas in this instance. This is particularly true in light of the statement on petition that inventor Haas has communicated to inventor Gabriel that he has unsuccessfully attempted to communicate with attorney Call by email. More importantly, the petition fails to explain why no attempt has been made to reach inventor Haas by traditional mail or by telephone. It cannot be concluded that diligent efforts have been undertaken to reach inventor Haas when it appears that no attempt has been shown to reach him through these alternative means. See MPEP 409.03(d).

Alternatively, petitioner has not shown that, by his conduct in failing to reply to the request to sign the declaration, inventor Haas has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence does not establish what, if anything, was actually successfully transmitted to inventor Haas by email. The evidence does not support a conclusion that the entire application package was properly transmitted to inventor Haas. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the

inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

If further attempts to reach the non-signing inventor by other means such as through traditional mail, E-mail, telephone, or the Internet continue to fail, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to reach the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should submit documentary evidence such as evidence of traditional mailing, and the results of any further E-mail or Internet searches.

Alternatively, refusal can be shown with evidence of inventor Haas' express or implied refusal to join in the application. Such a showing should include evidence from inventor Haas or from the postal service confirming receipt or delivery of all of the application papers to inventor Haas.

Further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Rodney Haas and Frederick Gabriel :
Application No. 10/837,049 : PETITION ACCORDING STATUS
Filed: May 1, 2004 : UNDER 37 C.F.R. § 1.47(a)
Attorney Docket No. E-14 :
Title: ELECTRICALLY-OPERATED :
TEMPERATURE-REGULATED SCENTED WAX :
WARMER :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. §1.47 TO FILE APPLICATION ON BEHALF OF INVENTOR AND NON-SIGNING JOINT INVENTOR" filed November 11, 2005.

The petition is **GRANTED**.

The above-identified application was filed on May 1, 2004, without an executed oath or declaration. The application included an application data sheet, identifying Rodney Haas and Frederick Gabriel as joint inventors. Accordingly, on July 8, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). In response, rule 47 applicant filed the initial petition, asserting that inventor Haas could not be found or reached after diligent effort to join in the application.

By decision mailed March 11, 2005, the petition was dismissed without consideration on the merits for failure to include the full petition fee (then $130). On March 31, 2005, petitioner submitted the fee deficiency to achieve payment of the current petition fee of $200.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

However, by decision mailed August 29, 2005, the petition was dismissed for failure to satisfy requirement (1) above.

On instant renewed petition, made timely by an accompanying petition and fee for extension for response within the first month, attorney Charles Call has submitted additional evidence to show that inventor Haas has refused to join in the application after having been presented with the application papers. Specifically, the evidence supports a conclusion that all of the application papers were mailed to inventor Haas by United States Postal Service Express Mail and delivered to inventor Haas on October 8, 2005. However, inventor Haas has, by his conduct, in not responding to the request to execute the declaration has refused to join in the application.

The declaration filed October 8, 2004, and the petitions have been reviewed and are now found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RODNEY HAAS
999/181 Soi 23 Sri Charoen Villa
Theparak Rd. Km 5 North Samrong
Samut Prakam
Thailand
10270

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Rodney Haas and Frederick Gabriel	:	
Application No. 10/837,049	:	LETTER
Filed: May 1, 2004	:	
Attorney Docket No. E-14	:	
Title: ELECTRICALLY-OPERATED TEMPERATURE-REGULATED SCENTED WAX WARMER	:	

Dear Mr. Haas:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

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

LAWRENCE P. KESSLER
PATENT DEPARTMENT
NEXPRESS SOLUTIONS LLC
1447 ST. PAUL STREET
ROCHESTER NY 14653-7103

COPY MAILED

JAN 07 2010

In re Application of	:	
Ng, Yee S.	:	
Application No. 10/837,051	:	ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. 81772/LPK	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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 2625 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN TX 78716-0727

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of
Tom Baker and Henrik T. Jensen
Application No. 10/837,064
Filed: April 30, 2004
Attorney Docket No. BP2441
Title: FREQUENCY SHIFT KEYING MODULATOR AND APPLICATIONS THEREOF

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 September 16, 2004.

On April 30, 2004, the application was deposited with a declaration that identified Tom Baker and Henrik T. Jensen as joint inventors. The declaration was executed only by joint inventor Jensen. On July 12, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the instant petition, Petitioner has submitted the petition fee, a statement of facts, the surcharge, the last known address of the non-signing joint inventor, and a copy of a letter which were sent to the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

The granting of this petition is predicated on three assumptions:

1. Petitioner has not stated whether he deems the non-signing inventor to be uncooperative or whether he cannot locate the same. As the petition does not mention that any search was conducted, but does set forth that a "draft of the application" was sent to the last-known address of the non-signing inventor, the Office will assume the former.

2. The Office will assume that the "draft of the application" which was sent to the non-signing inventor on December 3, 2003 is an exact duplicate of that which was filed with the Office on April 30, 2004. Therefore, the Office will presume that no modifications were made to the application in the intervening 5 months, and that the inventor was afforded the opportunity to review the same application which was later filed with the Office.

3. Although the cover letter which was sent to the non-signing inventor mentions the inclusion of only "the specification and figures," the Office will presume that the claims were considered to be part of the specification, and were sent to the non-signing inventor for his review.

Petitioner must notify the Office if these are not correct interpretations of the statements set forth in the instant petition.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

COPY MAILED

OCT 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Robert W. Hower et al. :
Application No. 10/837,067 : NOTICE
Filed: April 30, 2004 :
Attorney Docket No. UOM0217PUS1 :

This is a notice regarding your request for acceptance of a fee deficiency, filed September 18, 2008 which is treated as a submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The request was not in compliance with 37 CFR 1.28(c)(2)(ii) in that a proper itemization was not provided. As set forth in 37 CFR 1.28(c)(3), the request is treated as an authorization for the Office to process the fee deficiency and to charge the processing fee set forth in §1.17(i). The processing fee of $130 is charged to petitioner's deposit account No. 02-3978.

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) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

In re Application of:	:	PETITION GRANTING
Suh et al.	:	STATUS UNDER
Application No. 10/837,085	:	37 CFR 1.47
Filed: April 30, 2004	:	
Title of Invention:	:	
PLATING SYSTEM WITH COMPRESSION	:	
DRILL GUIDE	:	

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

This decision is in response to the correspondence entitled Response to Notice to File Missing Parts of Nonprovisional Application Filed Under 37 CFR § 1.53(b), filed September 20, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Lawrence J. Binder, Jr., refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

COPY MAILED

SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Banin, et al. :
Application No. 10/837,095 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. 456110-2353 :

This is a decision on the petition filed July 21, 2004, requesting that the above-identified application be accorded a filing date of April 29, 2004.

The application was deposited on April 29, 2004. However, on July 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" which stated a filing date was not accorded and that the application was deposited without drawings.

In response, on July 21, 2004, the instant petition was filed.

Petitioner states, "It is respectfully submitted that drawings are not required for a full understanding of the invention disclosed and claimed herein." It is noted that the petition contains statements that drawings are not necessary for an understanding of the subject matter and the petition is signed by a registered practitioner.

Additionally, it is noted that the nonprovisional application contains a process claim that includes the term "method" in it's introductory phrase and therefore drawings are not required.

MPEP 608.02 states:

> "An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

Accordingly, the petition is granted.

As the instant petition was required to accord the requested filing date, the petition fee will not be refunded.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date of April 29, 2004, with zero (0) drawings received on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

COPY MAILED

NOV 23 2005

OFFICE OF PETITIONS

In re Application of
Barbour et al.
Application No. 10/837,105
Filed: April 30, 2004
For: CORN EVENT TC1507 AND METHODS FOR DETECTION THEREOF
Attorney Docket No: 1523
Pub. No.: US 2005/0039226 A1
Pub. Date: February 17, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), received on March 15, 2005, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material errors made by the Office.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request also includes a mistake that is a not material error by the Office, which will not be corrected by a corrected publication by the Office.

The error mentioned in claim 61, wherein a period appears after "more" and before "DNA" will not be corrected as requested by applicant as the text of the application papers contains a marking which appears to be a period. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

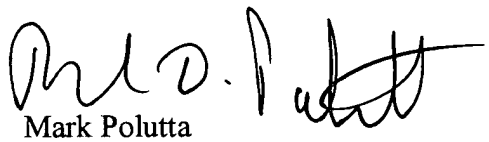
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).



Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED

AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Helliwell et al. :
Application No. 10/837,115 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 200209199-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on November 1, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 2, 2008. A Notice of Abandonment was mailed on June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2146 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHIRON CORPORATION
INTELLECTUAL PROPERTY - R440
P.O. BOX 8097
EMERYVILLE CA 94662-8097

COPY MAILED

FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Derek O'Hagan et al. :
Application No. 10/837,117 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. CHIR0004-100 :
(PP20267.002)

This is a decision on the petition under 37 CFR 1.10 (c) filed January 12, 2005 to correct the filing date to April 30, 2004, rather than the presently accorded filing date of April 29, 2004.

Petitioner alleges that the application was deposited in Express Mail service on April 30, 2004. In support, petitioner supplies a copy of Express Mail Label No. EL964555047US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is April 30, 2004.

In view of the above, the petition is **GRANTED** and the petition fee paid in the amount of $130.00 will be credited to deposit account no. 50-1275.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to the Office of Initial Patent Examination for correction of the **filing date to April 30, 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

cc:
COZEN O'CONNOR
1900 MARKET STREET, 6TH FLOOR
PHILADELPHIA, PA 19103-3508

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
10/837,118	05/03/2004	3671	385	C00024	2	10	2

CONFIRMATION NO. 2451

Neal T. Hauschild
4310 Sunbury Rd
Galena, OH 43021

UPDATED FILING RECEIPT

OC000000013865549

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)

David Combs, Central Point, OR;

Power of Attorney:

Neal Hauschild–50854

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/08/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,

US10/837,118

Projected Publication Date: 11/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

In-situ blade sharpener

Preliminary Class

056

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-19-09

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/837129 Patent No.: 7449672

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE Art Unit 2878

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Jako Blagoev	: DECISION ON REQUEST FOR
Patent Number	: 7606917	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/837,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

ALLERGAN, INC.
2525 DUPONT DRIVE
IRVINE, CALIFORNIA 92612

COPY MAILED

AUG 20 2008

In re Application of
Hughes et al.
Application No. 10/837,142
Filed: April 30, 2004
Attorney Docket No. D-3147 17687 (OCU)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 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 Notice of Non-Compliant Amendment mailed July 13, 2007, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 14, 2007. A Notice of Abandonment was mailed January 30, 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; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed July 13, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Further, the new Power of Attorney and Correspondence Address submitted March 24, 2008 is hereby accepted. A copy of the Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The application file is being referred to Technology Center AU 3774 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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
10/837,142	04/30/2004	Patrick M. Hughes	D-3147 17687 (OCU)

CONFIRMATION NO. 2319

51957
ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

POA ACCEPTANCE LETTER

OC00000003164095 4

Date Mailed: 08/18/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Lau and Patel :
Application No.10/837,157 : DECISION GRANTING PETITION
Filed: April 30, 2004 :
Attorney Docket No. **PARCR 68097** :

This is a decision on petition filed July 27, 2004, requesting that the above-identified application retain the presently accorded a filing date of April 30, 2004, with Figure19 as described in the specification as part of the original disclosure.

On April 30, 2004, the above-identified application was filed. On July 7, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of April 30, 2004, however, Figure 19 appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on July 27, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 19 sheets of drawings on April 30, 2004, and a copy of the Figure 19 as described in the specification.

Upon review of the record, Figure 19 as described in the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited April 30, 2004, included Figure 19, which was subsequently misplaced by the Office. Therefore, the application, including Figure 19 as described in the specification, was complete on filing and entitled to the presently accorded filing date of April 30, 2004.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figure is vacated, accordingly. The petition fee 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 30, 2004, using the 19 sheets of drawings filed on April 30, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Jun-10

DAVID GARROD
C/O LIGHTSPIN TECHNOLOGIES, INC.
P.O. BOX 30198
BETHESDA MD 20824-0198

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Harmon et al. :
Application Number: 10/837175 : LETTER DISMISSING PETITION
Filing Date: 05/01/2004 :
Attorney Docket Number: L24 :
:

This is a decision in response to the paper styled as a petition under 37 CFR 1.137(b)[1] filed on April 2, 2010, to revive the above-identified application.

The petition is **dismissed** for the reasons stated below.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[2]

This application became abandoned on August 19, 2009, for failure to properly respond to the final Office action mailed on February 18, 2009, which set a three (3)-month shortened statutory period

---

[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 Director 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)).

[2] 37 CFR 1.181(f).

for reply. On August 20, 2009 (certificate of mailing date August 18, 2009), an amendment after final rejection and a three (3)-month extension of time were filed. On October 14, 2009, however, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on August 18, 2009 fails to place this application in condition for allowance. Notice of Abandonment was mailed on December 31, 2009.

At the outset, the petition and the Request for Continued Examination (RCE) papers, which are signed only by joint inventor David B. Salzman, are not properly signed, as the declaration filed on May 1, 2004, lists Eric S. Harmon and David B. Salzman as joint inventors.

37 CFR 1.33(b) requires that papers filed in an application must be signed by (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, a renewed petition and a new RCE form, both signed by both joint inventors or a registered patent practitioner, on their behalf, must be filed.

Further, the required petition fee is lacking. While the fee for a Request for Continued Examination (RCE) was submitted with the petition paper, no petition fee was filed.

As stated in MPEP 711.03(c):

> 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.

It is additionally noted that petitioner states that the petition fee is $405.00. The fee for filing a petition under 37 CFR 1.137(b) (small entity), however, is currently $810.00. The proper fee must be submitted with a petition under 37 CFR 1.137(b).

Petitioners have appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioners no longer wish to represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted (copy of form enclosed). A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed. A courtesy copy of this correspondence will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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 matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/81

Cc:

DAVID B. SALZMAN, PH.D.
PO BOX 30198
BETHESDA, MD 20824-0198

DATE 10/18/07

APPLICATION NUMBER 10/837,198

DOC CODE Pet.Dec.TC

DOC DATE 10/22/07

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

COPY MAILED

OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Norbert Reich :
Application No. 10/837,198 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 58027-010301 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 28, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $750, and (3) 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) 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on June 8, 2007 does not include the proper reel and frame number or a proper chain in title.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the reply received June 8, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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

COPY MAILED

NOV 0 4 2008

OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

In re Application of :

REICH, Norbert :
Application No. 10/837,198 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. **39754-0982** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 08, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Leslie B. Overman on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed August 27, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **NORBERT REICH**
1241 MISSION RIDGE
SANTA BARBARA, CA 93103

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED

MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Karl Shiqing Wei et al. :
Application No. 10/837,201 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket Number: **9219M** :

This is a decision on the petition filed May 5, 2008 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided. A Notice of Appeal was filed December 11, 2006. On April 5, 2007 an appeal brief was filed with a two month extension of time. On May 23, 2007, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. No response having been timely filed, the application became abandoned.

Petitioner argues that the there shouldn't have been a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed in this matter and that based on conversations with the Office, the Notification mailed was meant for another unrelated application matter.

The USPTO file is the official record and there is nothing in the file that points to an error having been committed with respect to the mailing of the Notification. Furthermore, petitioner has not presented any evidence to support a finding that the Notification mailed May 23, 2007 was mailed in error. To the contrary, the Patent Appeal Specialist and the Examiner have opined that the Notification of Non-Compliant

Appeal Brief (37 CFR 41.37) mailed May 23, 2007 was proper because the Summary of claimed subject matter section of the appeal brief was found to be deficient . Thus the abandonment was proper since no response was timely filed to the May 23, 2007 Notification.

In view thereof, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED

DEC 11 2008

OFFICE OF PETITIONS

In re Application of :
Karl Shiqing Wei et al. :
Application No. 10/837,201 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket Number: **9219M** :

This is a decision on the renewed petition filed July 16, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application. This is also a decision on the petition to revive filed July 16, 2008 under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is not a final agency decision.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided. A Notice of Appeal was filed December 11, 2006. On April 5, 2007 an appeal brief was filed with a two month extension of time. On May 23, 2007, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. No response having been timely filed, the application became abandoned.

Petitioner argued in a petition filed May 5, 2008 that the there shouldn't have been a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed in this matter and that based on conversations with the Office, the Notification mailed was meant for another unrelated application matter.

Petitioner was advised in the decision dismissing the petition that the USPTO file is the official record and there is nothing in the file that points to an error having been committed with respect to the mailing of the Notification. Furthermore, petitioner had not presented any evidence to support a finding that the Notification mailed May 23, 2007 was mailed in error. To the contrary, the Patent Appeal Specialist and the Examiner opined that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed May 23, 2007 was proper because the Summary of claimed subject matter section of the appeal brief was found to be deficient . Thus the abandonment was proper since no response was timely filed to the May 23, 2007 Notification.

Comes now petitioner renewing their argument that the Notification of Non-Compliant Appeal Brief sent to them was not meant for application no. 10/837,201, based on conversations with the Office, but that it was meant for another unrelated application, thus the Abandonment is in error and should be withdrawn.

With the instant renewed petition, petitioner has not provided any additional proof to persuade the USPTO that no response was due. The Examiners have reviewed the matter again and find no evidence to warrant withdrawal of the abandonment. It is petitioner's burden to supply sufficient evidence to support the allegations made in the petition. In this case, petitioner has not offered any new arguments and has not yet met the burden that no response was due.

Comes now petitioner arguing in the alternative that the application was unintentionally abandoned with the instant petition to revive under 37 CFR 1.137(b) and a Substitute Appeal Brief under 37 CFR 41.37.

The Substitute Appeal Brief filed July 16, 2008 has been reviewed and it has been determined that it is not in compliance with 37 CFR 41.37 in that, the status of all claims in section IV have not been identified. Thus, the petition does not satisfy requirement (1) above.

A courtesy copy of the Notification of Non-Compliant Appeal Brief is included signed by the Examiner of record is included. Petitioner must submit a proper Substitute Appeal Brief under 37 CFR 41.37 with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Courtesy Copy of Notification of Non-Compliant Appeal Brief

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	10/837,201	WEI ET AL.	
	Examiner	Art Unit	
	Necholus Ogden Jr.	1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *16 July 2008* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☐ Other (including any explanation in support of the above items):

1.) The status of claims section fails to provide the status of all claims filed in 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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Karl Shiqing Wei et al.
Application No. 10/837,201
Filed: April 30, 2004
Attorney Docket Number: **9219M**

This is a decision on the renewed petitions filed January 26, 2009, under 37 CFR 1.181, to withdraw the holding of abandonment and under 37 CFR 1.137(b)[1] to revive the above identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided. A Notice of Appeal was filed December 11, 2006. On April 5, 2007 an appeal brief was filed with a two month extension of time. On May 23, 2007, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. No response having been timely filed, the application became abandoned. Petitioner argued in a petition filed May 5, 2008 that the there shouldn't have been a Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

---

[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)).

mailed in this matter and that based on conversations with the Office, the Notification mailed was meant for another unrelated application matter.

Petitioner was advised in the decision dismissing the petition that the USPTO file is the official record and there is nothing in the file that points to an error having been committed with respect to the mailing of the Notification. Furthermore, petitioner had not presented any evidence to support a finding that the Notification mailed May 23, 2007 was mailed in error. To the contrary, the Patent Appeal Specialist and the Examiner opined that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed May 23, 2007 was proper because the Summary of claimed subject matter section of the appeal brief was found to be deficient . Thus the abandonment was proper since no response was timely filed to the May 23, 2007 Notification.

A renewed petition filed July 16, 2008 argued further that the Notification of Non-Compliant Appeal Brief sent to them was not meant for application no. 10/837,201, based on conversations with the Office, but that it was meant for another unrelated application, thus the Abandonment is in error and should be withdrawn. The petition was dismissed, again, in a decision mailed December 11, 2008 because petitioner had not provided any additional proof to persuade the USPTO that no response was due. The Examiners reviewed the matter again after the filing of the July 16, 2008 petition was filed and found no evidence to warrant withdrawal of the abandonment. It is was noted in the December 11, 2008 decision that it is petitioner's burden to supply sufficient evidence to support the allegations made in the petition. Petitioner had not offered any new arguments and thus had not met the burden that no response was due.

In the alternative, petitioner argued on July 16, 2008 that the application was unintentionally abandoned and filed a petition to revive under 37 CFR 1.137(b) with a Substitute Appeal Brief under 37 CFR 41.37. The Substitute Appeal Brief filed July 16, 2008 was reviewed and it was determined that it was not in compliance with 37 CFR 41.37 in that, the status of all claims in section IV have not been identified. Thus, the petition did not satisfy requirement (1) under 37 CFR 1.137(b). A courtesy copy of the Notification of Non-Compliant Appeal Brief, signed by the Examiner of record was included with the December 11, 2008 decision noting that a proper Substitute Appeal Brief under 37 CFR 41.37 would be required with any renewed petition.

Comes now petitioner renewing their argument that the Notification of Non-Compliant Appeal Brief sent to them was not meant for application no. 10/837,201, based on conversations with the Office, but that it was meant for another unrelated application and under 37 CFR 1.137(b) with an Amended Appeal Brief under 37 CFR 41.37.

On instant renewed petition, Petitioner continues to maintain that no response was due. Petitioner's contentions have been considered, and again found to be unpersuasive.

Petitioner has renewed the same argument under 37 CFR 1.181 and has not provided any additional proof to persuade the USPTO that no response was due.

The Examiner of record has indicated that the Amended Appeal Brief filed January 26, 2009 with the instant renewed petition to revive is compliant with 37 CFR 41.37.

Petitioner's deposit account no. 16-2480 has been credited for the overpayment of the Amended Appeal Brief submitted with the instant petition. The fee was previously paid with the Amended Appeal Brief filed July 16, 2008,

This application is being forwarded to Technology Center 1796 for review of the Amended Appeal Brief filed January 26, 2009.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 145
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

Ray R. Regan, Esq.
P.O. Box 1442
Corrales, NM 87048

In re application of
Kenneth L. Suazo
Application No. 10/837,213
Filed: April 30, 2004
For: DITCH LINER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition submitted on April 30, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition includes a declaration by inventor, Kenneth L. Suazo. Mr. Suazo states that "the subject invention will materially enhance the quality of the environment of mankind by contributing to the maintenance of the basic life by sustaining at least one natural element, water, which has become a critical and dwindling natural resource." He goes on to say, "The present invention will substantially reduce the amount of water lost to evaporation and other causes of water loss disclosed in the application."

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, Mr. Suazo's statements are lacking in that they fail to explain, and establish for the record, how his invention contributes to the maintenance or restoration of the basic life-sustaining element-water. While it may be that Mr. Suazo's invention will "substantially reduce the amount of water lost to evaporation and other causes of water loss", it is not clear from his statements how this will be accomplished.

For the reasons stated above, the petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/06/04

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

OCT 14 2004

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of
John J. L. Simard et al
Serial No.: 10/837,217
Filed: April 30, 2004
Attorney Docket No.: MANNK.022C2

: PETITION TO MAKE SPECIAL

This is in response to the petition filed August 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The petition fee of $130.00 will be charged to applicants' Deposit Account No. 11-1410, as directed.

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, 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 11/29/07

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/837221 Patent No: 7258253B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved In Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: It appears applicant submitted papers for addition of inventor on 3/14/05.

SPE 3754 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA, CA 90404

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Jonathan Ackley :
Application No. 10/837,227 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 54317-021501/US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 7, 2005. This decision precedes the mailing of a Notice of Abandonment.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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).

It is noted that a Request for Continued Examination (RCE) and fee of $790, an amendment in compliance with 37 CFR 1.114, and a petition for extension of time were filed on April 7, 2006. However, a review of the RCE request shows that it was completely blank, and therefore, considered an improper filing.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper Request for Continued Examination (RCE) pursuant to 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay[1].

[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.

Since a fee of $790 was paid for the improper RCE on April 7, 2006, the $790 RCE filing fee submitted with the present petition is unnecessary, and is being refunded to counsel's deposit account.

Thereafter, the application is being referred to Technology Center AU 2617 for further processing the RCE filed October 10, 2006 in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,432,379	:	
Tung et al.	:	DECISION DISMISSING
Application No. 10/837231	:	REQUEST FOR
Issue Date: October 7, 2008	:	RECONSIDERATION OF
Filed: April 30, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
342837-0200	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed December 3, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred sixty (560) days to eight hundred sixty-eight (868) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 7, 2008, the above-identified application matured into U.S. Patent No. 7,432,379 with a patent term adjustment of 560 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 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 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 308 days and the period of adjustment due to

examination delay, pursuant to 37 CFR 1.702(a), of 560 days do not overlap as these periods do not occur on the same day.

The 308-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 30, 2004, and a request for continued examination (RCE) having been filed in this application on March 3, 2008, three years and 308 days later. Patentees assert that in addition to this 308-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 560 days. This 560-day period is the result of a period of delay of 560 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute that there is no period of reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (308 days) and the period of Examination Delay (506 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 868 days, which is the sum of the period of Three Year Delay (308 days) and the period of Examination Delay (560 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 868 days (308 + 560 reduced by 0 overlap - 0 (applicant delay)).

The Office agrees that as of the filing of the RCE on March 3, 2008, the application was pending three years and 308 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 560 days is correct. At issue is whether patentees should accrue 308 days of patent term

adjustment for the Office taking in excess of three years to issue the patent, as well as 560 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends, however, that 308 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by

section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, April 3, 2004, as terminated by the filing of the RCE on March 3, 2008. Prior to the issuance of the patent, 560 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 308 days for Office delay in issuing the patent overlap with the 560 days of Office delay. During that time, the issuance of the patent was delayed by 308 days, not 308 + 560 days. The Office took 14 months and 560 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 560 days of Office delay, and the time allowed within the time frames for processing and examination, the application issued three years and 308 days

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

after its filing date. 560 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 308 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Swiss Tanner, P.C.
P.O. Box 1749
Four Main Street, Suite 100
Los Altos CA 94022

COPY MAILED
MAR 15 2010

In re Application of	:	DECISION ON
Tung et al.	:	REQUEST FOR
Patent Number: 7,432,379	:	RECONSIDERATION OF
Issue Date: 10/07/2008	:	PATENT TERM ADJUSTMENT
Application No. 10/837231	:	and
Filing or 371(c) Date: 04/30/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 342837-0200	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on August 10, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-eight (868) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-eight (868) 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 May 1, 2007 and ends on March 2, 2008, the day before the RCE was filed, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 53 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 254 days (307 days – 53 days), not 308 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 eight hundred fourteen **(814)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,379 B2

DATED : **October 7, 2008**

INVENTOR(S) : Tung 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 560 days.

Delete the phrase "by 560 days" and insert – by 814 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

UNISYS CORPORATION
ATTN: LISE A. RODE
UNISYS WAY, MS/E8-114
BLUE BELL, PA 19424-0001

COPY MAILED

MAR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Klein et al. :
Application No. 10/837,237 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. PM063B :

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed August 7, 2007, which set a shortened statutory period for reply of one (1) month. A reply was due on or before September 7, 2007. A Notice of Abandonment was mailed on December 20, 2007.

Petitioner contest that the Notice of Abandonment was mailed prematurely, as there was still remained time to submit an extension of time.

Petitioner has submitted a Response to the Restriction Requirement, along with a five-month extension of time. The extension of time lengthens the period for reply to February 7, 2008. Accordingly, the response is timely filed with the instant petition.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. The $1540.00 petition fee will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center AU 2624 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

LAW OFFICE OF BARRY N. YOUNG
260 SHERIDAN AVENUE
SUITE 410
PALO ALTO CA 94306-2047

In re Application of :
Robert Tower Frey et al :
Application No. 10/837,240 : DECISION GRANTING PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. E003-1014US0 :

This is a decision on the petition, filed October 17, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 26, 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2182 for examination in due course.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DAVID E. CROMER
685 MARKET STREET - SUITE 540
SAN FRANCISCO, CA 94105

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Attorney Docket No.: 2267.847US02

Extrand, et.al.

Application No.:

Filed: April 30, 2004

For: FUEL CELL COMPONENT WITH LYOPHILIC SURFACE

PETITION TO MAKE APPLICATION SPECIAL
UNDER 37 C.F.R. §1.102(c)

10/837241

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

Mail Stop PATENT APPLICATIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to make the above-identified and enclosed non-provisional patent application special under 37 C.F.R. §1.102(c) and per the requirements of MPEP 708.02, paragraph VI (Energy). No fee is required for this petition.

Applicant submits that the invention materially contributes to the development of energy resources or the more efficient utilization and conservation of energy resources in that it relates to apparatus and methods for improving efficiency and lowering the cost of fuel cell technology, including hydrogen fuel cell technology.

In view of the foregoing, Applicant respectfully submits the pre-requisites for special status, per MPEP 708.02, paragraph VI (Energy), have been met and that the requirements for

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

JERRY A. SCHULMAN
TERRACE EXECUTIVE CENTER
COURT C
ONE SOUTH 376 SUMMIT AVENUE
OAKBROOK TERRACE IL 60181

COPY MAILED

SEP 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Rapoport	:	
Application No. 10/837,243	:	DECISION
Filed: 30 April, 2004	:	
Attorney Docket No. 10217-2-10	:	

This is a decision on the petitions, filed on 16 July and 18 August, 2008, and considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 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 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

Alternatively, Petitioner may file a "Petition to Revive an Application under 37 C.F.R. §1.137(b) as Having Been Abandoned Due to Unintentional Delay."

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 C.F.R. §1.137(b).

A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee (unless previously paid), and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific

fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

As to the Request to Withdraw the Holding of Abandonment

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

---

[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

*****

I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted

---

See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. 1.181(f). Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

*****

as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office. And under the rule (37 C.F.R. §1.181) Petitioner must seek relief within two months of the act complained of.

Petitioner has failed to support the petition and averments of search and non-discovery with the documentary presentations of the docket page/file jacket cover. Moreover, the reply due-date docket for the dates on which the papers would have been filed are so completely redacted as to be indecipherable. Petitioner may redact information that might reveal a client identifier/confidence, however, the transaction information should be available for Office review and consideration.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly Notice of Noncompliant Amendment mailed on 25 July, 2007, with reply due absent extension of time on or before Monday, 27 August, 2007.

The application went abandoned by operation of law after midnight 25 August, 2007.

The Office mailed the Notice of Abandonment on 28 May, 2008.

On 14 July and 18 August, 2008, Petitioner filed the instant petitions, asserting, *inter alia*, that the Notice of Noncompliant Amendment was not received, and avers a search of the file and non-discovery, but has failed to support the petition and averments of search and non-discovery with the documentary presentations of the docket page/file jacket cover. Moreover, the reply due-date docket for the dates on which the papers would have been filed are so completely redacted as to be indecipherable. Petitioner may redact information that might reveal a client identifier/confidence, however, sufficient transaction information should be available for Office review and consideration. (Petitioner also appears to have directed at least his first petition to an individual and at an improper FAX line, rather than to the Office of Petitions through the formal filing line for FAX transmissions (i.e., (571) 273-8300), and Petitioner is cautioned that such practice my well delay attention to the matter and may not be in concert with the guidance provided in *ex parte Pratt*.[2])

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) Attention to matters before the Office should evidence the care and diligence generally observed by prudent persons regarding their most important business affairs.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS

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).

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.[4,5]

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.[6] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

Further, the regulation requires relief be sought within two (2) months of the act complained of.

---

[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).

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] 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. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. 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) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[6] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The petition fails to satisfy the above-stated requirements in that Petitioner failed make the showing required.

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may file a petition under 37 C.F.R. §1.137(b) and aver unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

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

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[7]) 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

[7] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JERRY A. SCHULMAN
TERRACE EXECUTIVE CENTER
COURT C
ONE SOUTH 376 SUMMIT AVENUE
OAKBROOK TERRACE IL 60181

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Rapoport :
Application No. 10/837,243 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. 10217-2-19 :

This is a decision on the petitions, filed on 10 November, 2008, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

(Petitioner requested the decision in this matter reflect Attorney Docket No. 10217-2-19.)

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly Notice of Noncompliant Amendment mailed on 25 July, 2007, with reply due absent extension of time on or before Monday, 27 August, 2007.

The application went abandoned by operation of law after midnight 25 August, 2007.

The Office mailed the Notice of Abandonment on 28 May, 2008.

On 14 July and 18 August, 2008, Petitioner filed petitions, asserting, *inter alia*, that the Notice of Noncompliant Amendment was not received, and averred a search of the file and non-discovery, but failed to support the petition and averments of search and non-discovery with the documentary presentations of the docket page/file jacket cover. Moreover, the reply due-date docket for the dates on which the papers would have been filed were so completely redacted as to be indecipherable. (Petitioner may redact information that might reveal a client identifier/confidence, however, sufficient transaction information must be available for Office review and consideration. The petitions were dismissed on 5 September, 2008.

On 10 November, 2008, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a reply in the form of an amendment, and made the statement of unintentional delay. (A supplement authorized an extension of time fee, as did an earlier filing.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

---

[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.

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]))

As to Allegations of
Unintentional Delay

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 Technology Center/AU 3737 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/AU in 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

---

[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.

[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.

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

COPY MAILED

MAR 2 4 2008

SCHWEGMAN, LUNDBERG
& WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Tuv :
Application No. 10/837,246 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. 884.B68US1 :

This is a decision on the petition filed on 23 January, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 21 March, 2007, with reply due absent an extension of time on or before 21 June, 2007;

- on 26 June, 2007, Petitioner filed, inter alia, a request and fee for an extension of time and a reply in the form of an after-final amendment, which Petitioner, as one registered to practice before the Office, was aware was not a proper reply and not of right,[1] and the Examiner mailed an Advisory action on 12 July, 2007, and thereafter Petitioner filed a Notice of Appeal with fee on 23 July, 2007, with a requirement for the filing of the

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

Appeal Brief and fee on or before 23 September, 2007, in the absence of an request and fee for extension of time;

- the application went abandoned after midnight 23 September, 2007;
- the Office mailed the Notice of Abandonment on 28 December, 2007;
- on 23 January, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that the Petitioner had the option to extend the reply date and that "[t]he final date for filing an Appeal Brief taking into account all available extensions of time is 23 February, 2008[,]" however, as of the writing of this decision that date having passed it appears that no reply in the form of an Appeal Brief and fee has been filed by Petitioner—thus, while Petitioner has made a showing that the 28 December, 2007, entry of Notice of Abandonment may have been precipitous and improvident, the application now stands abandoned as a matter of law and Petitioner has not made a complete showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have made a complete showing herein as discussed in the BACKGROUND, above, to wit: the reply date of 23 February, 2008, having passed and it appears that no reply in the form of an Appeal Brief and fee has been filed by Petitioner, although Petitioner has made a showing that the 28 December, 2007, entry of Notice of Abandonment may have been precipitous and improvident, the application now stands abandoned as a matter of law and Petitioner has not made a complete showing consistent with

---

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

CONCLUSION

Petitioner appears only to have satisfied in part the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted in part** to the extent that the 28 December, 2007, entry of abandonment was precipitous and improvident and is **vacated**; however, in all other particulars the petition is **dismissed** in that the application appears now to stand abandoned as a matter of law.

NOTES: 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."

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window

Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG
& WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

DEC 08 2009

OFFICE OF PETITIONS

In re Application of :
Tuv :
Application No. 10/837,246 : DECISION
Filed: 30 April, 2004 :
Attorney Docket No. 884.B68US1 :

This is a decision on the petition filed on 27 May, 2008 (though apparently not docketed to the Office of Petitions until 8 October, 2009), and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 21 March, 2007, with reply due absent an extension of time on or before 21 June, 2007;

- on 26 June, 2007, Petitioner filed, inter alia, a request and fee for an extension of time and a reply in the form of an after-final amendment, which Petitioner, as one registered to practice before the Office, was aware was not a proper reply and not of right,[1] and the Examiner mailed an Advisory action on 12 July, 2007, and thereafter Petitioner filed a Notice of Appeal with fee on 23 July, 2007, with a requirement for the filing of the Appeal Brief and fee on or before 23 September, 2007, in the absence of an request and fee for extension of time;

- the application went abandoned after midnight 23 September, 2007;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the Office mailed the Notice of Abandonment on 28 December, 2007;

- on 23 January, 2008, Petitioner filed a petition with, *inter alia*, an averment that the Petitioner had the option to extend the reply date and that "[t]he final date for filing an Appeal Brief taking into account all available extensions of time is 23 February, 2008[,]" however, as of the 22 March, 2009, drafting of the 24 March, 2009, decision it appeared in IFW that no reply (*inter alia*, in the form of an Appeal Brief and fee) had been filed by Petitioner—thus, while Petitioner made a showing that the 28 December, 2007, entry of Notice of Abandonment may have been precipitous and improvident, the application stood abandoned as a matter of law and Petitioner had not made a complete showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing. The petition was dismissed on 24 March, 2009.

- on 27 May, 2008, Petitioner renewed the petition, this time evidencing with a copy of a date-stamped ("MAR 21 2008") the filing, *inter alia*, of an Appeal Brief and fee (with a request and fee for extension of time)—which papers had not been uploaded into IFW at the time the prior decision was drafted.

It is noted that Petitioner appears to have filed no inquiry (e.g., Status Inquiry) whatsoever in the period between the filing of the petition and the drafting of the instant decision. Petitioners are aware that cycle time for petitions is approximately 120 days, and Petitioners are responsible for such written inquiry into these matters should the delay extend past that time.

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

---

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner appears to have made an appropriate showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 28 December, 2007, Notice of Abandonment previously was **vacated**.

The instant application is released to the Technology Center/AU 2129 to await the Examiner's Answer 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/AU in 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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Nov-05

LAW OFFICES OF BARRY N. YOUNG
260 SHERIDAN AVENUE
SUITE 410
PALO ALTO CA 94306-2047

COPY MAILED

NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Frey et al.	:	DECISION ON PETITION
Application No. 10/837,248	:	
Filed: 30 April, 2004	:	
Atty Docket No. MNTI-01013US0	:	

This is a decision on the petition, filed on 17 October, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 26 April, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 2 March, 2006, is enclosed herewith.

The address provided in the petition is different than the correspondence address of record. A courtesy copy of this decision is being forwarded to the address listed in the petition. All future correspondence will be sent solely to the address of record, however. If the correspondence address has changed, petitioner should file a Change of Correspondence Address.

The application is being referred to Technology Center Art Unit 2161 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

cc: David E. Cromer
685 Market Street - Suite 540
San Francisco CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF BARRY N. YOUNG
200 PAGE MILL ROAD, SUITE 102
PALO ALTO, CA 94306-2061

COPY MAILED

AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Frey et al.	:	
Application No. 10/837,248	:	DECISION ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. E003-1013US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 14, 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 February 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2165 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Pedersen & Company, PLLC
P.O. Box 2666
Boise, ID 83701

COPY MAILED

FEB 13 2007

OFFICE OF PETITIONS

In re Application of :
Cliff Atkeson et al. :
Application No. 10/837,252 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. CL30-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 23, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Pedersen & Company, PLLC has been revoked by the applicants of the patent application on December 13, 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wells St. John P.S.**
601 W. First Avenue, Suite 1300
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OCT 14 2004

In re Application of	:	
Kenneth E. Vanlier	:	
Serial No. 10/837,271	:	DECISION ON PETITION
Filed: May 3, 2004	:	TO MAKE SPECIAL
For: BOARD GAME, APPARATUS,	:	
AND METHOD OF PLAY	:	

Applicant's petition, filed May 3, 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

Mr. Kenneth E. Vanlier
606 Steeplechase Road
Tuscaloosa, AL 35406

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

AUG 07 2008

OFFICE OF PETITIONS

In re Application of :
Gider et al. :
Application No. 10/837,279 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. :
15872.0073US01/HITG.073P

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 17, 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.

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 $1050.00 extension of time fee submitted with the petition on July 17, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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 2627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John K. Prentice
505 Hapgood Street
Boulder, CO 80302-6965

COPY MAILED

JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Prentice and Fuka :
Application No.: 10/837,309 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No: 4072-038 :

This is in response to the petition under 37 CFR 1.137(b) filed April 25, 2005.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice to File Corrected Application Papers" (the "Notice") was mailed on July 7, 2004, allowing a two-month period for reply. Extensions of time were available pursuant to 37 CFR 1.136(a). The Notice required replacement drawings to be filed. A proper response was not received within the allowable period, and the application became abandoned on September 8, 2004. A Notice of Abandonment was mailed on March 22, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The replacement drawings filed April 25, 2005, are noted.

This application is being forwarded 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
Petitions Attorney
Office of Petitions

cc:
Tiberis Weisz, Esq.
Gottlieb, Rackman & Reisman, P.C.
270 Madison Avenue
New York, NY 10016-0601

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

DEC 1 4 2005

Technology Center 2100

In re Application of: KOBAYASHI, et al.
Application No. 10/837,317
Filed: May 3, 2004
For: STORAGE CONTROL SYSTEM AND CONTROL METHOD FOR STORAGE CONTROL SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 26 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 26 October 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies several numbered features for each independent claim. There is also a statement for each of the references deemed most closely related that the reference fails to teach or suggest the numbered features recited in the independent claims. However, the numbered features recite so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references.

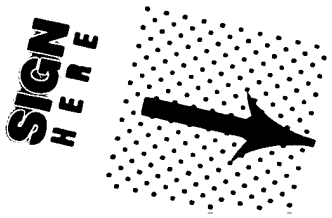
Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
K. UCHIUMI, et al.
Application No. 10/837,317
Filed: May 3, 2004
For: STORAGE CONTROL SYSTEM AND CONTROL METHOD FOR STORAGE CONTROL

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 03 February 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 26 October 2005 and 03 February 2006 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
571-272-3613

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Ruchika Singhal	: DECISION ON REQUEST FOR
Patent Number	: 7596408	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/837,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1299** 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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

JAN 31 2008

OFFICE OF PETITIONS

In re Application of :
Gerald Josph Bruck :
Application No. 10/837,327 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2004P04723US

This is a decision in response to the petition filed September 28, 2007, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/319,006.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3746 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/837,327	04/30/2004	3746	770	2004P04723US	19	2

CONFIRMATION NO. 2313

CORRECTED FILING RECEIPT

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Date Mailed: 01/31/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Gerald Joseph Bruck, Murrysville, PA;

Assignment For Published Patent Application

Siemens Westinghouse Power Corporation

Power of Attorney:

Richard Westerhoff--24454
Daniel Cillo--25108
Jeffrey Morris--25307
Daniel Abeles--25822
Mark Jay--27507
Adel Ahmed--29606
Peter Luccarelli Jr--29750
John DeAngelis Jr--30622
James Markarian--31277
Joseph Codispoti--31819

Domestic Priority data as claimed by applicant

This application is a CIP of 10/319,006 12/13/2002 PAT 6,829,896

Foreign Applications

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 **US 10/837,327**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Catalytic oxidation element for a gas turbine engine

Preliminary Class

060

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

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 05/03/2010

Applicant	: Gerald Joseph Bruck	: DECISION ON REQUEST FOR
Patent Number	: 7617682	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/837,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

O"MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT LA-1118
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

COPY MAILED

AUG 20 2008

In re Patent No. 7,215,802 :
Issue Date: May 8, 2007 :
Application No. 10/837,352 : NOTICE
Filed: April 29, 2004 :
Attorney Docket No. 895,675-198

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.

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.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mark Joy
Leydig, Voit & Mayer, LTD
Two Prudential Plaza, Suite 4900
180 North Steton Avenue
Chicago, IL 60601-6731

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

COPY MAILED

SEP 22 2006

OFFICE OF PETITIONS

In re Application of
Gill
Application No. 10/837,353
Filed: April 30, 2003
Title of Invention: Multilayer Self-Pinned Structure For CPP GMR

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 19, 2006, to revive the above-identified application.

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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed November 15, 2005. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on May 16, 2006

The petition is **dismissed**.

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). An amendment was submitted in response to the Office Action. However, a review of the Office Action shows that corrected drawings are required. Although petitioner indicates corrected drawing have been submitted a review of the record shows that drawings are not present. Petitioner must submit corrected drawings on renewed petition.

It should further be noted all future correspondence should contain the correct application number (10/837,353).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

COPY MAILED

JAN 08 2007

OFFICE OF PETITIONS

In re Application of
Gill
Application No. 10/837,353
Filed: April 30, 2003
Title of Invention: Multilayer Self-Pinned Structure For CPP GMR

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) filed November 16, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed November 15, 2005. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on May 16, 2006. A petition under 37 CFR 1.137(b) was dismissed on September 22, 2006.

This petition is hereby **Granted**.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DCM

JUL 2 2 2004

In re Application of	:	
Richard J. Petrone	:	
Serial Number: 10/837,372	:	PETITION UNDER
Filed: April 29, 2004	:	M.P.E.P.708.02 V
For: FLOW-THROUGH MEDIA	:	

This is in response to the petition filed April 29, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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

SEP 14 2005

BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

In re application of Frith Ann Maier et al. Application No. 10/837,374 Filed: April 30, 2004 For: DIGITAL IMAGE COLLECTION AND LIBRARY SYSTEM	:	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 3, 2005 to make the above-identified application special.

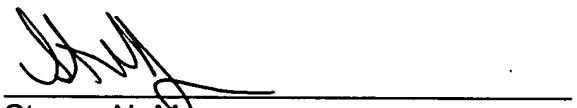
The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 3, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571-272-6611

SNM/dew: 09/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Donald F. Haas
Shell Oil Company
Legal-Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

COPY MAILED

APR 13 2005

OFFICE OF PETITIONS

In re Application of
Drent et al.
Application No. 10/837,401
Filed: April 30, 2004
Attorney Docket No. TS0982 02 US

Petition Under 37 CFR 1.78(a)
Dismissed as Moot

This is a decision on the petition under 37 CFR 1.78(a), filed October 28, 2004, to accept an unintentionally delayed claim for the benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **dismissed as moot**.

Office policy provides that if a priority claim is timely made, but not made in the manner specified by 37 CFR 1.78(a), the Office will *not* require a petition and surcharge *if* the priority information regarding the claim was recognized by the Office as shown by its inclusion on the filing receipt. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time periods set forth in 37 CFR 1.78(a). Of course, an applicant must still submit the claim in the manner specified in 37 CFR 1.78(a)(2) and (5) (i.e., by an amendment in the first sentence of the specification or in an application data sheet) to have a proper claim.

Although the priority claim was not included in an application data sheet or in the first sentence of the specification, a timely priority claim was made in the transmittal sheet. The priority claim was recognized by the Office as shown by the fact it was included on the Filing Receipt. Therefore, a petition and payment of a surcharge are unnecessary.

For the reasons above, the petition is dismissed as moot. The surcharge has not been charged to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 1621 for appropriate action on the amendment submitted October 28, 2004, including consideration by the examiner of the claim for priority listed in the amendment. The examiner should consider the priority claim and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed application.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 30 2005

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of :
Chou : PETITION DECISION
Application No. 10/837,403 : UNDER 37 CFR 1.78(a)(6)
Filed: April 30, 2004 :
Dkt. No.: 141609.00002- :
P1212US01 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/466,719, which was filed on April 30, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the 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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning

either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2873 for appropriate action on the amendment submitted September 14, 2005, 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. 60/466,719.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN LUNDBERG & WOESSNER/APPLE
PO BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

JUN 02 2009

OFFICE OF PETITIONS

In re Application of :
James D. Batson :
Application No. 10/837,413 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 772.024US1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 18, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely submit a response to the non-final Office action mailed October 3, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 4, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master 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 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.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of January 3, 2009, nor has petitioner stated that such a record does not exist. Rather, petitioner has only submitted a copy of his incoming mail log. If no such master docket report exists, petitioner should so state on renewed petition.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the

---

[1] MPEP 711.03(c).

filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 11 2009

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER/APPLE
PO BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
James D. Batson :
Application No. 10/837,413 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 772.024US1 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 8, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely submit a response to the non-final Office action mailed October 3, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 4, 2009. Applicant filed a petition to withdraw the holding of abandonment on May 18, 2009, arguing that he never received the non-final Office action. However, the petition was dismissed in a decision mailed on June 2, 2009. The decision explained that petitioner

had only submitted a copy of an incoming mail log, as opposed to a master docket.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master 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 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.

On renewed petition, petitioner states that the docket submitted is a "Master Docket of the firm as to PTO documents received, and is not a mail log". However, a review of the docket indicates that it is a listing of PTO documents received, arranged in chronological order by the date they were mailed from the PTO. It is not a "master docket" as set forth in MPEP 711.03(c) above, one which shows all of the firm's replies docketed for a due date of January 3, 2009.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1)

---

[1] MPEP 711.03(c).

The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 29 2009

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER/APPLE
PO BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
James D. Batson :
Application No. 10/837,413 : ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 772.024US1 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 4, 2009.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a response to the non-final Office action mailed October 3, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 4, 2009. Applicant filed a petition to withdraw the holding of abandonment on May 18, 2009, arguing that he never received the non-final Office action. However, the petition was dismissed in a decision mailed on June 2, 2009. The decision explained that petitioner had only submitted a copy of an incoming mail log, as opposed to a master docket. Applicant filed a renewed petition on July 11, 2009, which was again dismissed in a decision mailed on August 11, 2009.

With the instant petition, applicant submitted a copy of a master docket report, showing all of the firm's replies docketed for a due date of January 3, 2009. An entry for the instant application is absent, supporting the conclusion that the October 3, 2008 Office action was not received.

The application is being forwarded to Group Art Unit 2431 for re-mailing of the October 3, 2008 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN C. TRASK
3601 EAST HERMES DRIVE
SALT LAKE CITY, UT 84214

COPY MAILED

SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Ralph C. Symes et al :
Application No. 10/837,449 : DECISION ON PETITION
Filed: April 30, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. B53-194 :

This is a decision on the petition, filed August 29, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition 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.

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

The instant petition fails to comply with item (1) above in that no notice or statement has been provided as to the filing date of the international application. Accordingly, before a decision can be rendered on the instant petition, petitioner must provide the filing date of the international application and must be accompanied by 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 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: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 1.137(f))

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

BRIAN C. TRASK
3601 EAST HERMES DRIVE
SALT LAKE CITY, UT 84124

COPY MAILED

NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Ralph C. Symes et al :
Application No. 10/837,449 :
Filed: April 30, 2004 :
Attorney Docket No. B53-194 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed October 3, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on April 13, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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 will be mailed in a separate correspondence.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3617 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert W. Diehl, Esq.
Wallenstein Wagner & Rockey, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

COPY MAILED

FEB 13 2007

OFFICE OF PETITIONS

In re Application of :

Lisa M. Brothers :
Application No. 10/837,452 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. 3594 P 002 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2006.

The request is **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 Monique Morneault on behalf of all attorneys of record who are associated with Customer No. 23424.

All attorneys/agents associated with the Customer No. 23424 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 Lisa M. Brothers at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lisa M. Brothers**
26284 West Vista Court
Ingleside, CA 60041

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
10/837,452	04/30/2004	Lisa M. Brothers	3594 P 002

CONFIRMATION NO. 2713

OC000000022482605

OC000000022482605

Robert W. Diehl, Esq.
Wallenstein Wagner & Rockey, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

Date Mailed: 02/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100121

DATE : April 22, 2009

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction on Patent No.: 7482504 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

/PATRICIA M BIANCO/
Supervisory Patent Examiner.Art Unit 3772

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert W. Diehl, Esq.
Wallenstein Wagner & Rockey, Ltd.
53rd Floor
311 South Wacker Drive
Chicago IL 60606-6630

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Lisa M. Brothers :
Application No. 10/837,453 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. 3594 P 003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorney(s) and/or agent(s) cannot be withdrawn using a Customer Number because the practitioners were not appointed by Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lisa M. Brothers**
26284 W. Vista Court
Ingleside, IL 60041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert W. Diehl, Esq.
Wallenstein Wagner & Rocky, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

COPY MAILED

AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :

Lisa M. Brothers :
Application No. 10/837,453 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. 3594 P 003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 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 Monique A. Morneault on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Lisa M. Brothers at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lisa M. Brothers**
28284 W. Vista Court
Ingleside, IL 60041

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
10/837,453	04/30/2004	Lisa M. Brothers	3594 P 003

CONFIRMATION NO. 2715

OC000000025130133

Robert W. Diehl, Esq.
Wallenstein Wagner & Rockey, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Gerri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 15 2008

OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

In re Application of
Wayne D. Young
Application No. 10/837,473
Filed: April 30, 2004
Attorney Docket No. **NVDA/P001134**

: DECISION GRANTING PETITION

This is a decision on the petition, filed October 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to 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 present nonprovisional application is the subject of a foreign or international application filed on April 25, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is November 20, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1540.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2628 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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
10/837,473	04/30/2004	Wayne D. Young	NVDA/P001134

CONFIRMATION NO. 4073

26290
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

NONPUBLICATION RESCISSION LETTER

Date Mailed: 08/14/2008

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 11/20/2008.

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".

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

DEC 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Day et al. :
Application No.: 10/837,479 :
Filing Date: April 29, 2004 :
Docket No.: DDI5035 :
For: Actuation System For A Bodily Fluid Extraction Device And Associated Methods :

DECISION

ON

PETITION

This is in response to the petition under 37 CFR 1.137(a) filed on July 17, 2006, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

Review of the record reveals that, on March 10, 2006, a Notice Of Allowance And Fee(s) Due (PTOL-85) identifying the correspondence address of record was mailed but, on March 23, 2006, the United States Postal Service returned the Notice to the USPTO as undelivered. Inspection of the returned envelope reveals that the correspondence address was not visible thereon. Petitioner subsequently submitted the instant petition and fees on July 17, 2006. In view of the fact that the Notice of Allowance was not properly transmitted to applicant via the USPS, the holding of abandonment is hereby **WITHDRAWN**, and the Issue Fee and Publication Fee paid on July 17, 2006 are being accepted. The $500.00 petition fee for the petition under 37 CFR 1.137(a) is being refunded to petitioner's Deposit Account No. 10-0750.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: 571-272-3283
Facsimile: 571-273-0459

Conferee: Brian Hearn
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

SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: Viktoriya Ts. Ivanova	: DECISION ON REQUEST FOR
Patent Number	: 7590639	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/837,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** 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

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: RENEE M. QUICK
20511 LAKE FOREST DR.
E-118H
LAKE FOREST CA 92630

MAIL

MAY 23 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Francis H. LIU, et al.
Application Serial No.: 10/837,490
Filed: April 30, 2004
For: **READ/WRITE HEAD WITH DYNAMIC FLYING HEIGHT CONTROL BY MAGNETOSTRICTION**

DECISION
ON PETITION

This is a decision on the petition, filed July 23, 2007, pursuant to 37 CFR § 1.181, requesting withdrawal of the final action.

Petitioner alleges that the examiner erred in holding the Office action mailed May 30, 2007 final and requests withdrawal of finality of the Office action. Applicant argues that the new grounds of rejection were not reasonably necessitated by applicant's earlier amendment.

PERTINENT BACKGROUND INFORMATION

A non-final Office action was mailed on February 6, 2007 rejecting claims 1-12, 14, 15 22-24, 29-42, 58-51, 53, 58 and 59 under 35 USC 102 as being anticipated by Mackent et al. (US Patent No. 7,064,933). Furthermroe, claims 16-21, 25-27, 43-47, and 54-56 were rejected under 35 USC 103 as being unpatentable over Macken et al. (US Patent No. 7,064,933).

Applicant filed an amendment on March 27, 2007, wherein claims 1, 13, 15, 22-24, 29-31, 42, 48-50, 52, and 58-59 were amended. Claims 25 and 54 were canceled. (Claims 28 and 57 were withdrawn as being drawn to a non-elected invention.)

On May 30, 2007, the Examiner made a Final Office action with a new grounds of rejection wherein claims 1-17, 26, 27, 31-44, 51-53, 55 and 56 were rejected under under 35 USC 102 as being anticipated by Nikitin et al. (US Patent No. 7,154,696). Furthermore, claims 18-24, 29, 30, 45-50, 58 and 59 were rejected under 35 USC 103 as being unpatentable over Nikitin et al. (US Patent No. 7,154,696). The examiner's Office action indicated that applicant's amendment necessitated the new grounds of rejection.

On July 23, 2007, applicant filed a response, including a petition arguing that the finality of the rejections was improper under MPEP 706.07(a) that was not reasonably necessitated by applicant's earlier amendment. Applicant argues that the amendment essentially moved a "stop layer" limitation from dependent claim 15 to independent claim 1, and similarly from dependent claim 42 to independent claim 31 and therefore since the "stop layer" was already present in the dependent claims, it was therefore already the subject of examination and moving it to the independent claims should not have necessitated a new search.

An Advisory Action was mailed August 15, 2007 entering the after final amendments for purposes of appeal, but setting forth reasons why applicant's request for reconsideration was not found persuasive.

On August 30, 2007, applicant filed a Notice of Appeal; on September 17, 2007, applicant filed an Information Disclosure Statement; and on October 16, 2007, applicant filed an Appeal Brief.

DECISION

A review of the file record finds that dependent claim 15 originally set forth "The head of claim 1, further comprising a stop layer that is disposed behind the actuator, in order to substantially limit the magnetostrictive plate to expand in the forward direction." A review of the file, finds a similar limitation recited in original dependent claim 42.

The limitation that was added to claim 1 and independent claim 31 by the amendment filed March 27, 2007 is "a stop layer that is disposed behind the actuator, adjacent the magnetorestrictive plate along the direction but opposite the protusion".

Applicant's arguments that the examiner's new grounds of rejection were not reasonably necessitated by applicant's March 27, 2007 amendment have been fully considered but are not deemed persuasive. Clearly, the "stop layer" limitation that was added to each of independent claims 1 and 31 was not exactly the same as was originally claimed in dependent claims 15 and 42. The March 27, 2007 amendment provided an additional limitation in that the stop layer was not only disposed behind the actuator, but is further recited as being positioned "adjacent the magnetorestrictive plate along the direction but opposite the protusion". This newly recited positioning of the stop layer is deemed to be a new limitation that would in fact require new search and consideration by the examiner. Accordingly, the finality of the examiner's May 30, 2007 Office action is deemed proper as necessitated by applicant's amendment.

Regardless, the issue became moot with applicant's filing of an Appeal Brief on October 16, 2007.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.** The application is being forwarded to the examiner for consideration of the Appeal Brief, as appropriate.

Mark R. Powell

Mark Powell, Director
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

COPY MAILED

DEC 22 2008

OFFICE OF PETITIONS

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

In re Application :
Cleveland, et al. :
Application No. 10/837,495 : PATENT TERM ADJUSTMENT
Filed: April 30, 2004 :
Dkt. No.: 2004.03.003.WS0 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed August 13, 2008.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED IN PART and HELD IN ABEYANCE IN PART**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed May 30, 2008, indicated a patent term adjustment (PTA) to date of 380 days. The instant application for PTA was timely filed August 13, 2008, at the time of submission of the issue fee payment. Applicants argue that the application is entitled to an adjustment of 450 days

The correct PTA at the time of the allowance is 380 days, as indicated on the Determination of Patent Term Adjustment.

Applicants herein do not dispute the patent term adjustment of 256 days. Applicants do not dispute the patent term reduction of three days.

Applicants dispute the adjustment of 127 days in connection with the mailing of the Notice of Allowance on May 30, 2008. Applicants submit that the correct adjustment in this regard is 30 days. Applicants further argue that the PTA should be reduced an additional 68 days.

Applicants' arguments have been carefully considered, but are not persuasive.

A review of the record reveals that a final rejection was mailed July 24, 2007. A response to the final rejection was filed September 24, 2007. An Advisory Action was mailed October 23,

2007. A Notice of Appeal and request for Pre-Appeal Conference were filed December 31, 2007. The rejection to applicants' response to the final rejection was withdrawn, as indicated by the Pre-Appeals Conference Decision mailed March 7, 2008. Notice of Allowance and Issue Fee Due was mailed May 30, 2008. In view of the proceedings, it would appear that the response to the final rejection filed September 24, 2007 placed the application in condition for allowance. Therefore, an adjustment of 127 days in accordance with 37 CFR 1.702(a)(3) was properly accorded. The adjustment commenced January 25, 2008 and ended May 30, 2008.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 380 days (adjustments totalling 383 days less reductions totalling three days).

The instant application for patent term adjustment also 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 of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

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 three 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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior

to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

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 Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of 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

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

COPY MAILED
OCT 0 6 2006
OFFICE OF PETITIONS

In re Application of Basir et al. :
Application No. 10/837,497 : Decision on Petition
Filing Date: April 30, 2004 :
Attorney Docket No. 60,449-105 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 31, 2005. A Notice of Abandonment was mailed on June 7, 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 3636 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

IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS MN 55418

COPY MAILED

AUG 13 2007

OFFICE OF PETITIONS

In re Application of
Irfan A. Ali et al.
Application No. 10/837,500
Filed: April 30, 2004
Attorney Docket No. 151P11664USU1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed May 25, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications 10/459,672 filed June 11, 2003 and 09/302,613 filed April 30, 1999.

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.

A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(5)(111). However, a final office action was mailed February 6, 2007. To

reopen prosecution for consideration of this amendment, petitioner has submitted a Request for Continued Examination (RCE) and fee.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3767 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/837,500	04/30/2004	3767	1152	151P11664USU1	34	2

CONFIRMATION NO. 1564

CORRECTED FILING RECEIPT

54228
IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

OC000000025317770

Date Mailed: 08/13/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Irfan Z. Ali, Woodbury, MN;
David C. Ullestad, Maple Grove, MN;

Assignment For Published Patent Application

Medtronic, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **23322**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/508,019 10/02/2003
and claims benefit of 60/496,968 08/20/2003
and is a CIP of 10/459,672 06/11/2003 PAT 7,008,413
which is a DIV of 09/302,613 04/30/1999 PAT 6,579,280

Foreign Applications

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 US10/837,500

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Drug infusion system and method adapted to start during programming cycle

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 21, 2007

Patent No. : 7286881 B2
Ser. No: : 10/837506
Inventor(s) : Schommer et al.
Issued : Oct. 23, 2007
Title : **EXTERNAL POWER SOURCE HAVING AN ADJUSTABLE MAGNETIC CORE AND METHOD OF USE**
Docket No. : 151P11098US1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
Attn: Office of Petitions

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS MN 55418

CBN/eme

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

IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS MN 55418

COPY MAILED

DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Mark E. Schommer et al. :
Application No. 10/837,506 : DECISION ON PETITION
Filed: April 30, 2004 :
Attorney Docket No. 151P11098USU1 :

This is a decision on the petition under 37 CFR 1.182, filed, July 17, 2009, to change the name of inventor "Michael J. McMullen" to – Raymond F. McMullen --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 1.182 and directing issuance of the requested Certificate of Correction.

JoAnne Burke
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
10/837,506	04/30/2004	3766	1864	151P11098USU1	33	8

CONFIRMATION NO. 1557

54228
IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

CORRECTED FILING RECEIPT

OC000000039114209

Date Mailed: 12/07/2009

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)

Mark E. Schommer, Maple Grove, MN;
William C. Phillips, Brooklyn Park, MN;
David P. Olson, Minnetrista, MN;
Andrew L. Schmeling, River Falls, WI;
Charles E. Peters, Blaine, MN;
Steven R. Ahcan, Fridley, MN;
John W. Forsberg, St. Paul, MN;
Michael J. Elvidge, Shoreview, MN;
Raymond F. McMullen, Shorewood, MN;

Assignment For Published Patent Application

Medtronic, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23322

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/508,174 10/02/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/837,506**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

EXTERNAL POWER SOURCE FOR AN IMPLANTABLE MEDICAL DEVICE HAVING AN ADJUSTABLE MAGNETIC CORE AND SYSTEM AND METHOD RELATED THEREFORE

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of
Centurelli, Pozzoni, Scotti, and Trifiletti
Application No. 10/837,508
Filed: April 30, 2004
Attorney Docket No. 03CA05353435
For: Method and Circuit for Sensing the Transition Density of a Signal and Variable Gain Phase Detecting Method and Device

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 13, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1) listed above.

Paolo Picco states he spoke with non-signing inventors Scotti and Trifiletti. He states both of the inventors refused to sign the declaration. However, Picco does not state he has spoken with Centurelli. Petitioner has not proven that Centurelli refuses to sign the declaration.

Petitioner has failed to establish any of the inventors were able to sign the declaration but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention. Refusal to sign a declaration based on what one "thinks" is being claimed, is not the equivalent of refusal to sign the declaration after one "knows" what is being claimed. The petition fails to establish the non-signing inventors were presented with a copy of the application papers.

Petitioner should send a copy of the application to the inventors along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 increased from $130 to $200. Therefore, $70 has been charged to petitioner's deposit account.[1]

A request for corrected filing receipt filed after the petition indicates petitioner wishes for the declaration to serve as a power of attorney. The declaration is not signed by all the inventors. Since the instant petition is dismissed, the signing inventor has not been given the authority to sign a power or attorney on behalf of the other inventors. Once a petition has been granted under 37 CFR 1.47(a), any power of attorney given in the declaration will be entered into Office records.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of
Centurelli, Pozzoni, Scotti, and Trifiletti
Application No. 10/837,509
Filed: April 30, 2004
Attorney Docket No. 03CA05353435
For: Phase Detector and Method of Generating a Phase-Shift Differential Signal

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 13, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1) listed above.

Paolo Picco states he spoke with non-signing inventors Scotti and Trifiletti. He states both of the inventors refused to sign the declaration. However, Picco does not state he has spoken with Centurelli. Petitioner has not proven that Centurelli refuses to sign the declaration.

Petitioner has failed to establish any of the inventors were able to sign the declaration but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention. Refusal to sign a declaration based on what one "thinks" is being claimed, is not the equivalent of refusal to sign the declaration after one "knows" what is being claimed. The petition fails to establish the non-signing inventors were presented with a copy of the application papers.

Petitioner should send a copy of the application to the inventors along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 increased from $130 to $200. Therefore, $70 has been charged to petitioner's deposit account.[1]

A request for corrected filing receipt filed after the petition indicates petitioner wishes for the declaration to serve as a power of attorney. The declaration is not signed by all the inventors. Since the instant petition is dismissed, the signing inventor has not been given the authority to sign a power or attorney on behalf of the other inventors. Once a petition has been granted under 37 CFR 1.47(a), any power of attorney given in the declaration will be entered into Office records.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 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

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO CA 92029

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of
Wright, et al.
Application No.: 10/837,514
Filed: April 29, 2004
Attorney Docket No.: 788115-2
For: FLEXIBLE IV SITE PROTECTOR AND METHOD OF USING SAME

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 29, 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 29, 2004 with a partially executed declaration and a Rule 47 petition with the required $130 fee. The petition is accompanied by a declaration by Attorney Jerry R. Potts that states that he mailed Mr. Daniel King, the legal representative of Kion Gould, the non-signing inventor, a copy of application no. 10,676,167 with a declaration for Mr. Gould's signature, but that no response to his telephone calls or the mailing was received.

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), Applicant has failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Attorney Pott's declaration and the exhibits to the declaration do not establish that Mr. King/Gould was mailed a copy of application no. 10/837,514. Instead, Mr. King/Gould received a copy of application no. 10/676,167.

Mr. Gould must have application no 10/837,514 in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Gould cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application at issue. When petitioner can show that Mr. Gould or his representative was mailed and received the complete application and that Mr. Gould either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioner will have satisfied this requirement.

As an aside, it is noted that currently the only inventor listed in application no. 10/676,167 is Mr. Wright. Given the assertions in this petition, it is assumed that a Rule 47(a) petition will be filed shortly in application no. 10/676,167.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

COPY MAILED

MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
STRUTT, Peter R. et al. :
Application No. 10/837,517 : DECISION ON PETITION
Filed: April 30, 2004 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 05, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer Number 49698 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **PEPE & HAZARD, LLP**
225 ASYLUM ST.
HARTFORD CT 06103

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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Benyu Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7664735	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/837,540	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **524** 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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Benyu Zhang
Patent Number : 7664735
Issue Date : 02/16/2010
Application No: 10/837,540
Filed : 04/30/2004

: 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 **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JANAH & ASSOCIATES
A PROFESSIONAL CORP.
650 Delancey Street, Suite 106
San Francisco, CA 94107-2001

JAN 12 2006

In re Application of:
Seelin, Srikanth N.
Serial No.: 10/837,548
Filed: April 30, 2004
Attorney Docket No.: **SLNK.3.US**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 27 2004 and resubmitted November 14, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Ashok K. Janah, on behalf of himself and all the attorneys associated with Customer No. 21861.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, Srikanth N. Seelin, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Srikanth N. Seelin
6097 Stanley Court
San Jose, CA 95123

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of: NOMOTO et al.
Application No. 10/837,549
Filed: April 30, 2004
For: SYSTEM RECOVERY METHOD AND COMPUTER SYSTEM USING THE SAME

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 18 November 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

AUG 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042

In re Application of :
Yasuhiro Matsuda :
Application No. 10/837,565 : DECISION ON PETITION
Filed: May 4, 2004 : TO MAKE SPECIAL
For: **INFORMATION PROCESSING APPARATUS AND METHOD OF CONTROLLING THE INFORMATION PROCESSING APPARATUS** :

This is a decision on the petition filed July 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 15 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
Yuji Hatada et al	:	
Serial No.: 10/837,566	:	PETITION DECISION
Filed: May 4, 2004	:	
Attorney Docket No.: 252686US0	:	

This is in response to the petition under 37 CFR 1.144, filed June 12, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on May 4, 2004, and, as amended, contained claims 2 and 4-28. In a first Office action, mailed December 1, 2005, the examiner set forth a restriction requirement, as follows:

> Group I – claims 2, 4-5, 10-11, 16, 20-21 and 26-28, drawn to alkaline proteases; and
> Group II – claims 6-9, 12-15, 17-20 and 22-25, drawn to nucleotide molecules and host cells comprising sequences for alkaline proteases.

The examiner also set forth 36 Sequence variants (not included here) requiring election of one in combination with the election of Group I or II. Appropriate reasoning was also set forth for requiring restriction.

Applicants replied on January 3, 2006, electing Group II and Group D sequence with traverse, arguing that the examiner has failed to provide proper support for requiring restriction between Groups I and II and no rationale for restricting between sequences having a specific substitution on SEQ ID NO. 1,and also that no burden by the Office had been shown which would justify restriction.

On March 24, 2006, the examiner mailed an Office action to applicants acknowledging the elections and responding to the traverse by stating that each sequence variant is considered a separate invention and that the polypeptides of Group I can be made by processes using other nucleotides than those of Group II. Claims 2, 4-5 and 10-28 were considered withdrawn. The examiner made several objections to the specification and claims, but set forth no rejections.

Applicants filed this petition on June 12, 2006.

Applicants replied on July 21, 2006, amending the specification and again setting forth a traversal of the restriction requirement essentially as set forth in the petition

DISCUSSION

Applicant's claims are directed to an alkaline protease represented by SEQ ID NO. 1 wherein the amino acid residues at selected positions of the sequence are replaced by a different residue (Group I). There are 27 different positions where a single variation may occur. In addition, combinations of more than one variation may occur in a given sequence. Each variant, further, may be made by substitution of a single specific amino acid or one selected from up 18 different amino acid residues. The claims of Group I also include products (detergents) incorporating the protease. The proteases of Group I, and products included therein, can be made by methods other than that of Group II, such as by chemical synthesis. Conversely, the claims of Group II are directed to a gene, vector, transformant or microorganism which encodes the protease. Thus the claims of Group II are not directly linked with the proteases of Group I and restriction therebetween is proper inasmuch as the search and other considerations, such as structure and function are significantly different for each Group. (It is noted that all claims of Group II are dependent directly or indirectly on the proteases set forth in independent claims 2 and 4 and this should be corrected by amendment.)

However, with respect to the restriction requirement between the innumerable variants of SEQ ID NO. 1, the requirement is withdrawn although each variant is considered a separate invention and is patentable in and of itself, they are closely linked or intimately associated with each other. In search ing one sequence, the search could relatively easily be extended to variants thereof since the position of the variation(s) is(are) known. It is unclear at this point whether the elected invention was fully examined on the merits in the Office action mailed March 24, 2006.

DECISION

The petition is **GRANTED-IN-PART.**

The restriction requirement between Groups I and II is maintained, but the restriction between the variants is withdrawn.

The application will be forwarded to the examiner for consideration of applicants' reply filed July 21, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott.
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN P. HALVONIK
STE. 202
15200 SHADY GROVE RD.
ROCKVILLE, MD 20840

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
George L. Cvijic :
Application No. 10/837,567 : ON PETITION
Filed: May 4, 2004 :
For: INFANT FEEDING APPARATUS :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2005, to revive the above-identified application.

The petition is **DISMISSED** as inappropriate.

On July 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice), stating that the application had been accorded a filing date, and advising Applicant that a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125 is required since "the line spacing on the specification, claims or abstract is not 1½ or double spaced." In addition, an abstract commencing on a separate paper is required. The Notice provides a reply period of 2 months from its mailing date which is extendable under 37 CFR 1.136(a). A reply was filed on September 7, 2004. Accordingly, the reply to the Notice mailed July 7, 2004 is timely filed and the above-identified application is not abandoned. Therefore, the petition under 37 CFR 1.137(b), filed June 15, 2005 is dismissed as moot.

The petition fee ($750) accompanied with the instant petition is unnecessary. Petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3727.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John P. Halvonik
15200 Shady Grove Road
Suite 202
Rockville, MD 20840

COPY MAILED

JUL 11 2007

OFFICE OF PETITIONS

In re Application of :

George L. Cvijic :
Application No. 10/837,567 : DECISION ON PETITION
Filed: May 4, 2004 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John P. Halvonik on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor George L. Cvijic at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **George Cvijic**
1145 Stoney Run Road
Hummelstown, PA 17036

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
10/837,567	05/04/2004	George L. Cvijic	

CONFIRMATION NO. 3205

OC000000024754910

John P. Halvonik
15200 Shady Grove Rd.
Suite 202
Rockville, MD 20840

Date Mailed: 07/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Yelli Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 19 2004

MAILED

JUL 19 2004

OFFICE OF THE DIRECTOR
TC 3600

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington, VA 22215

In re application of
Salvatore Cirella
Application No. 10/837,578
Filed: May 04, 2004
For: POGO PLANTER

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on May 04, 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. Cirella indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 7/17/04

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED
MAY 12 2005
Technology Center 2100

In re Application of: SATO
Application No. 10/837,598
Filed: May 4, 2004
For: METHOD AND DEVICE FOR ACQUIRING SNAPSHOTS AND COMPUTER SYSTEM WITH SNAPSHOT ACQUIRING FUNCTION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed April 12, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

While Petitioner correctly indicates claim 6 to be an independent claim on page 3 of the Petition, it is believed that Petitioner erroneously refers to claim 8, rather than claim 6, as an independent claim for the rest of the discussion. Although the Office made the decision for petition based on such a belief, Petitioner is cautioned to be more attentive to errors of similar nature in the future.

Note, Petitioner also presents a discussion in section 3 of the petition, on a number of references that are believed by Applicants to be of "less-closely related to the present invention." Since requirements (d) and (e) above requires discussion of references deemed **most** closely related to the subject matter encompassed by the claims, it is suggested that in the future, Petitioner should only include discussions on those references that are deemed most closely related, and omit references that are less closely related.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 4/21/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

caj

Mailed: 1-16-07

In re Application of : DECISION ON
Byung-Heun Kang et al. : PETITION
Serial No. 10/837,606 :
Filed: May 4, 2004
For: PHOSPHOR LAYER, IMAGE DISPLAY DEVICE EMPLOYING THE SAME AND METHOD FOR MAKING THE PHOSPHOR LAYER

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 20, 2006 and made final in the office action mailed July 18, 2006.

On April 20, 2006, the Examiner issued a restriction requirement, requiring restriction between five groups of inventions. Applicants traversed the restriction requirement in a response filed May 22, 2006. The examiner repeated the restriction requirement in an office action mailed July 18, 2006 and made the restriction requirement final. Claims 5-12 and 17-29 were withdrawn from consideration as being drawn to a non-elected invention.

On October 17, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because applicant describes and claims a single embodiment and there is a lack of serious burden due to identical classification.

DECISION

Sections 803 and 806.03 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

806.03 Single Embodiment, Claims Defining Same Essential Features
Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

In making the restriction final, the examiner states that the claims require a burdensome search and concludes that restriction between the five groups of inventions is proper.

Petitioner requests withdrawal of the restriction requirement because the claims are directed to a single embodiment. This argument has been considered but is not persuasive. A review of claims 1-29 indicates that the claims do not define the same essential characteristics of a single disclosed embodiment of an invention. The instant claims encompass three different statutory classes of invention, i.e. a product, a method of making, and a composition. Further, the method claims do not require the particulars of the composition or product, the product claims do not require the particulars of the method or composition, and the composition does not require the particulars of the product or method. A review of the disclosure finds that each of these are referred to as separate aspects of the invention. Refer to [0010] – [0011]. Petitioner has not shown that the inventions as claimed are not distinct, as set forth by the examiner in the restriction requirement.

Petitioner further argues that the restriction between the method groups II, III, and V is improper as there is no serious burden on the examiner as evidenced by the identical classification of the claims belonging to these three groups. This argument is persuasive. The examiner has not established that any serious burden exists to examine all of the claims. All of the claims are classified in the same area and the examiner has not provided evidence, such as by citing patents which are evidence of a separate status in the art although classified together or evidence of a separate field of search. The restriction requirement is improper between groups II, III, and V and should be withdrawn.

Accordingly, the restriction requirement is found to be improper with respect to the method claims of groups II, III, and V and found to be proper with respect to groups I, IV, and the method claims of groups II, III, and V. Therefore, the petition to withdraw the restriction requirement is **GRANTED-IN-PART**. Claims 5-12 and 17-29 remain withdrawn from consideration.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 6/6/07

caj

In re application of :
Byung-Heun Kanget al. : DECISION ON
Serial No. 10/837,606 : PETITION
Filed: May 4, 2004 :
For: PHOSPHOR LAYER, IMAGE DISPLAY DEVICE EMPLOYING THE SAME AND METHOD FOR MAKING THE PHOSPHOR LAYER

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed February 23, 2007.

On July 18, 2006, a non-final office action was mailed by the examiner. Applicant's responded to this office action on October 17, 2006. The examiner mailed a final office action on February 23, 2007, rejecting claim 31 under 35 USC 112, first paragraph, claims 1-4, 30, and 31 under 35 USC 112, second paragraph, and claims 1-3, 13-15, 30 and 31 under 35 USC 102(b).

On April 20, 2007, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the February 23, 2007 office action.

Applicant's position for the withdrawal of the finality is that both the non-final office action and the final office action were incomplete.

DECISION

Petitioner argues that claims 4 and 16 were never examined on the merits. It is noted that the examiner, in an Advisory Action mailed May 24, 2007, has indicated claims 4 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 USC 112, second paragraph and to include all of the limitations of the base claim and any intervening claims and provides a reason for the indication of the allowable subject matter. Therefore, this argument is moot.

Petitioner further argues that claims 1, 2, 13, and 14 were never given a proper examination in each of the first and final Office actions. However, in both the first and final Office action, the examiner stated that the claimed layer structure would be inherent in the layer structure taught by the prior art. A detailed explanation was provided by the examiner on pages 4-5 of the final office action explaining why it was the position of the examiner that the claimed properties were inherent in the teachings of the reference.

MPEP 2112 states:
In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte*

Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)

In the instant case, the examiner has applied a basis to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the prior art (the position that the same process of making would necessarily result in the same product having the same properties).

It is noted that in the instant petition, petitioner appears to make the argument that the aforementioned basis is insufficient to shift the burden of proof onto applicants to show that the prior art materials do not in fact inherently possess the instantly claimed properties. This however, is not a petitionable matter under rule 1.181, but rather an appealable matter to the Board of Patent Appeals and Interferences. The instant petition will not address this issue. As to the issue of whether the final office action was complete, it appears that a prima facie case was clearly set forth by the examiner and that the office action was in fact complete.

Therefore, the petition is **DENIED.** Applicant's time for response continues to run from February 23, 2007.

Jmstone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

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

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

COPY MAILED

MAY 14 2007

OFFICE OF PETITIONS

In re Application of :
Yang, et al. :
Application No.: 10/837,609 : ON PETITION
Filed: May 4, 2004 :
Attorney Docket No: SEC.1103 :

This is in response to the petition under 37 CFR 1.137(b) filed February 12, 2007.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed May 11, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was received within the allowed period, and the application became abandoned on August 12, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Although the petition indicates that a Notice of Appeal was filed, a review of the application file did not reveal the Notice of Appeal. The fee for the Notice of Appeal has been credited to the application. To be considered grantable, the renewed petition must be accompanied by the Notice of Appeal or another proper response to the final Office. Form PTO/SB/31 is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/31

PTO/SB/31 (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.

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]
on _____

Signature_____

Typed or printed
name _____

In re Application of

Application Number | Filed

For

Art Unit | Examiner

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) $_____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by 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 charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____ . I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

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.

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. Registration number _____.

☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

_____
Signature

_____
Typed or printed name

_____
Telephone number

_____
Date

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 _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. 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, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

Volentine & Whitt PLLC
One Freedom square
11951 Freedom Drive, suite 1260
Reston, VA 20190

COPY MAILED

JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of :
Yang, et al. :
Application No. 10/837,609 : DECISION ON PETITION
Filed: May 4, 2004 :
Attorney Docket No. SEC 1103 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 11, 2006, which set a three (3) month shortened statutory period for reply. A proper response was received within the allowable period, and the application became abandoned on August 12, 2006. A petition under 37 CFR 1.137(b) was first filed on February 12, 2007, and dismissed by a decision mailed May 14, 2007.

The Notice of Appeal, filed February 12, 2007, and in duplicate on May 21, 2007, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded to Technology Center 2800, GAU 2814for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of

Yang, et al.

Application No. 10/837,609

Filed: May 4, 2004

Attorney Docket No. SEC 1103

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 18, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 19, 2007, after it was believed that a proper and timely response was not filed after the filing of a Notice of Appeal. A decision on a petition under 37 CFR 1.137(b) was mailed on June 18, 2007, and allowed a two-month period in which to file an appeal brief. A Notice of Abandonment was mailed on October 22, 2007, indicating that a reply to the final Office action mailed May 11, 2006, was not received.

Petitioner states that the abandonment of the application was premature as the decision of June 18, 2007, allowed a two-month period for reply that is extendable under 37 CFR 1.136(a). A review of the application file reveals that a Request for Continued Examination and request for extension of time within the fourth month was filed on December 18, 2007. It is noted that the period for reply following the filing of a Notice of Appeal is extendable under 37 CFR 1.136(a). Based on the aforementioned, it appears that the application was improperly held abandoned as the Request for Continued Examination was received prior to expiration of the maximum statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being directed to Technology Center Group Art Unit 2814 for further processing.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT - 8 2004

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of	:	
Rajendran et al.	:	
Serial No.: 10/837,613	:	PETITION TO MAKE SPECIAL
Filed: May 4, 2004	:	
Attorney Docket No.: P56969	:	

This is in response to applicants' petition filed July 26, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, I (A), (B), (C),and (D). The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 02-4943, as directed. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

GARY R. TANIGAWA
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

COPY MAILED

MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Edward D. Hyman	:	DECISION ON PETITION
Application No. 10/837,684	:	TO WITHDRAW
Filed: May 4, 2004	:	FROM RECORD
Attorney Docket No. BAYB.P-003-2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 29, 2005 the power of attorney to Nixon & Vanderhye, PC was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Larson & Anderson, LLC
P.O. Box 4928
Dillon CO 80435

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

MOORE & VAN ALLEN, PLLC FOR BOFA
430 DAVIS DRIVE, SUITE 500
POST OFFICE BOX 13706
RESEARCH TRIANGLE PARK NC 27709

MAILED

NOV 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Cathy C. Northington, et al.	:	
Application No. 10/837,692	:	DECISION ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. 016762.093A-US03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 18, 2008 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 19, 2008. The Notice of Abandonment was mailed December 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3691 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
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

Bib Data Sheet

CONFIRMATION NO. 2897

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/837,724	05/03/2004 RULE	606	3775	

APPLICANTS

Dennis Colleran, Frisco, TX;
Jennifer Diederich, Arlington, TX;

** CONTINUING DATA **********

** FOREIGN APPLICATIONS **********

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** SMALL ENTITY **
** 07/07/2004

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	TX	8	42	4
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

INNOVATIVE SPINAL TECHNOLOGIES, INC.
2745 N. DALLAS PARKWAY
SUITE 460
PLANO, TX75093

TITLE

System and method for displacement of bony structures

FILING FEE RECEIVED	FEES: Authority has been given in Paper	
626	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

COPY MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Dennis Colleran, et al. :
Application No. 10/837,724 : DECISION ON PETITION
Filed: May 3, 2004 : TO WITHDRAW
Attorney Docket No. 03-003-US1 (IST 3519003) : 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, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Gregory W. Carr on behalf of all attorneys of record who are associated with customer No.57004. All attorneys/agents associated with the Customer Number 57004 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 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 March 11, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INNOVATIVE SPINAL TECHNOLOGIES
2745 N. DALLAS PARKWAY
SUITE 460
PLANO, TX 75093

cc: ECKERT, SEAMANS, CHERIN & MERLLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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
10/837,724	05/03/2004	Dennis Colleran	03-003-US1 (IST 3519003)

CONFIRMATION NO. 2897

POWER OF ATTORNEY NOTICE

57004
CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Date Mailed: 08/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Application of Colleran et al. :
Application No. 10/837,724 : On Application For
Filing Date: May 3, 2004 : Patent Term Adjustment
Attorney Docket No. ZP192-10074 :

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b) and 35 U.S.C. § 154" filed April 13, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand six hundred eighty-two (1,682) days, not 710 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.

Charles Steven Brantley
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.

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

BARNES & THORNBURG
750-17TH STREET NW
SUITE 900
WASHINGTON DC 20006

COPY MAILED

NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of :
John Tauber :
Application No. 10/837,744 : ON PETITION
Filed: May 4, 2004 :
Attorney Docket No. 5723-76782 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of prior-filed nonprovisional Application No. 09/627,155, filed July 27, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed nonprovisional Application No. 09/627,155, filed July 27, 2000.

The instant pending nonprovisional application was filed on May 4, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed nonprovisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2). However, on the other hand, if the USPTO does not note the claim for priority to the nonprovisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of nonprovisional Application No. 09/627,155, in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy 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 AU 3727 for processing the amendment filed October 4, 2005, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional Application No. 09/627,155, filed on July 27, 2000.

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

Paper No.

COPY MAILED

AUG 2 9 2008

MAGIQ TECHNOLOGIES, INC
171 MADISON AVENUE, SUITE 1300
NEW YORK NY 10016-5110

In re Application of	:	
Audrius Berzanskis et al.	:	
Application No. 10/837,775	:	DECISION ON PETITION
Filed: May 3, 2004	:	PURSUANT TO
Attorney Docket No.: 007-04US1	:	37 C.F.R. § 1.181
Title: STANDARDS-COMPLIANT ENCRYPTION WITH QKD	:	

This is a decision on the petition filed on July 14, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 15, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on February 16, 2008. A notice of abandonment was mailed on June 20, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant

is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **describing the system used** for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is **sufficiently reliable**. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> **Practitioner must state that** the Office action was not received at the correspondence address of record, and that a **search of the practitioner's record**(s), including any file jacket or the equivalent; and the application contents, indicates that the Office action was not received. A **copy of the record**(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If **no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

(Emphases added).

ANALYSIS

The showing in this petition is not sufficient to withdraw the holding of abandonment. Petitioner is the attorney of record, and he has asserted that the Final Office action was not received by the Assignee.[1] Petitioner has explained that Office actions are not mailed directly to him, but rather to the Assignee, who then sends him a copy of the correspondence via facsimile transmission.[2]

Petitioner has included a statement from Mr. Bookman (the Vice-President of Finance and Administration of the Assignee) who has stated that the Office action was not received at the correspondence address of record.

However, Mr. Bookman has not:

- described the system used by the Assignee for recording an Office action received at the correspondence address of

1 Petition, page 1.
2 Id. at 2.

record with the USPTO (i.e., the Assignee's docketing system);

- established that said docketing system is sufficiently reliable;
- stated that a search of the Assignee's record(s), including any file jacket or the equivalent, indicates that the Office action was not received;[3]
- provided a copy of the record(s) used by the Assignee where the non-received Office action would have been entered had it been received is required, or;
- provided a copy of the Assignee's master docket or state that no such master docket exists and provide other evidence, as detailed above.

It is noted in passing that Petitioner has included a copy of his docket, so as to establish that he did not receive the relevant Office communication from the Assignee. However, the question of whether Petitioner received the relevant communication from the Assignee is immaterial to the matter at hand: whether the relevant Office communication was received at the correspondence address of record.

CONCLUSION

Pursuant to the above discussion, the petition must be **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

---

3 Mr. Brookman has indicated that he conducted an "inspection" of "USPTO correspondence received by MagiQ as presently maintained at MagiQ," however it is not clear what these records consist of.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (571) 273-8300- please note this is a central facsimile number.

Alternatively Petitioner may also file a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

As a third option, Petitioner may file a renewed petition pursuant to 37 C.F.R. § 1.181 concurrently with a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

COPY MAILED

MAY 04 2009

OFFICE OF PETITIONS

OPTICUS IP LAW, PLLC
7791 ALISTER MACKENZIE DRIVE
SARASOTA FL 34240

In re Application of :
Audrius Berzanskis et al. :
Application No. 10/837,775 : DECISION ON PETITION
Filed: May 3, 2004 : PURSUANT TO
Attorney Docket No.: 007-04US1 : 37 C.F.R. § 1.137(b)
Title: STANDARDS-COMPLIANT :
ENCRYPTION WITH QKD :
:

This is a decision on the petition filed October 24, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The concurrently submitted Change of Correspondence Address has been entered and made of record.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 15, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on February 16, 2008. A notice of abandonment was mailed on June 20, 2008.

It is noted that a petition pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn, was filed July 14, 2008,

and was dismissed via the mailing of a decision on August 29, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
> (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and a statement that is being construed as the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

It is noted that Petitioner has further submitted a terminal disclaimer along with the required fee, which is not required.[2] Should Petitioner wish for this terminal disclaimer to be withdrawn, a petition requesting the same will be required.

---

1 See Rule 1.137(d).
2 See 37 C.F.R. § 1.137(d)(1).

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on October 24, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRANK J. MCGUE
10801 N. 32ND STREET, SUITE 5
PHOENIX, AZ 85028

COPY MAILED

JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Robert D. Dundas :
Application No. 10/837,850 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3742 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 2 9 2005

OFFICE OF PETITIONS

FRANK J. MCGUE
10801 N. 32nd STREET, SUITE 5
PHOENIX, AZ 85028

In re Application of :
Robert D. Dundas :
Application No. 10/837,850 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2005.

The April 27, 2005 petition under 37 CFR 1.137(b) states "The reply and/or fee to the above-noted Office action in the form of Amendment A has been filed previously on January 11, 2005." The USPTO records show there is no signature on the amendment submitted January 11, 2005. Also note the certificate of mailing received with the amendment is dated October 16, 2003. This petition can not be revive until an amendment is received and signed by the appropriate person.

The decision mailed June 9, 2005 is hereby vacated as of the mail date of this decision.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRANK J. MCGUE
10801 N. 32ND STREET, SUITE 5
PHOENIX, AZ 85028

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Robert D. Dundas :
Application No. 10/837,850 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3742 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Warren B. Cope	: DECISION ON REQUEST FOR
Patent Number	: 7616753	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/837,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: 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.

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

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Warren B. Cope
Patent Number : 7616753
Issue Date : 11/10/2009
Application No: 10/837,855
Filed : 05/03/2004

: 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 **1575** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Donald W. Spurrell
P.O. Box 970
Johnson City, TN 37605

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Baalke and Rawls :
Application No.: 10/837,856 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No: :
For: FUEL-AIR MIXING STRUCTURE AND METHOD FOR INTERNAL COMBUSTION ENGINE

This is in response to the petition under 37 CFR 1.47(a), filed September 3, 2004.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-cited application was filed on May 3, 2004, without a properly executed declaration. On July 12, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a proper declaration and a surcharge of $65.00 for the late filing of the declaration. On September 3, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP), provides in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he

> or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or if the nonsigning inventor is represented by counsel, to the address of the non-signing inventors attorney.

There is no indication from the petition papers that the complete application papers were sent to the non-signing inventor for review. Pursuant to Section 409.03(d) of the MPEP as cited above, the alleged refusal of inventor Baalke cannot be considered valid without affirmative proof that an effort was made to provide him with a complete copy of the application papers. Any renewed petition filed must be accompanied by evidence that a complete copy of the application papers was presented to inventor Baalke.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 020805

Weingarten, Schurgin
Gagnetin & Lebovici, LLP
Ten Post Office Sq.
Boston, MA 02109

FEB - 9 2005

In re Application of:
Gilbert D. Beinhocker
Serial No.: 10/837,883
Filed: May 3, 2004
Attorney Docket No.: **BEIN-001XX**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed June 7, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a birth certificate from the inventor, Gilbert D. Beinhocker, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

WALTER W. DUFT
LAW OFFICES OF WALTER W. DUFT
8616 MAIN ST
SUITE 2
WILLIAMSVILLE NY 14221

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael Hacikyan	:	
Application No. 10/837,899	:	DECISION ON PETITION
Filed: May 3, 2004	:	UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 1605-3	:	
Title: SELF-ADHESIVE PURGE DAM	:	
FOR RETAINING PURGE GAS AROUND	:	
A WELD ZONE	:	

This is a decision on the petition filed on April 6, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

whether the delay was unintentional.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on May 3, 2005. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay. Petitioner has also submitted a Rescission of Nonpublication Request.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 19, 2006 accompanies this decision on petition.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision.

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. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Felix Mauchle et al :
Application No. 10/837,908 : ON PETITION
Filed: May 4, 2004 :
Attorney Docket No. 713-1065

This is a decision on the petition filed, October 10, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/20/09

Paper No.: _____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10837933 Patent No.: 7496164

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**.

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested changes seem to be proper, because they are in accordance with the originally filed application, therefore, the Request for Certificate of Correction is approved

/Juan A. Torres/ Primary Examiner 2611

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

COPY MAILED

DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Mark T. Stewart et al :
Application No. 10/837,947 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. P0008417.08 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 31, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the February 28, 2008 Office action. A courtesy copy of this Office action is being mailed with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received.

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
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) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: copy of the February 28, 2008 Office action mailed

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.
10/837,947	05/03/2004	Mark T. Stewart	P0008417.08	3931

27581 7590 02/28/2008

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER	
COHEN, LEE S	
ART UNIT	PAPER NUMBER
3739	
MAIL DATE	DELIVERY MODE
02/28/2008	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.

Office Action Summary	Application No.	Applicant(s)	
	10/837,947	STEWART ET AL.	
	Examiner	Art Unit	
	Lee S. Cohen	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 January 2008*.

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) *1-43* is/are pending in the application.

4a) Of the above claim(s) *2,3,6 and 8-40* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,5,7 and 41-43* 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Claims 2, 3, 6, and 8-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hall et al (6,652,517) or Bowe (7,013,169) in view of either Avitall (5,263,4930 or Koblish (2001/0020174). Applicant's attention is directed to column 6, line 8 – column 7, line 2 in Hall et al and Figures 1 and 2 in Bowe and their accompanying description at columns 3 and 4. Neither of these references disclose a distal leader member. Such a feature is well known in the art to properly locate loop electrodes as disclosed by element 22 in Avitall and as shown by the Figure 16 embodiment of Koblish. Given these teachings, it would have been obvious to the skilled artisan to add such a leader member to either Hall et al or Bowe to permit more effective locating of the loop electrodes.

Claims 1, 4, 5, 7, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falwell (2006/0241366) in view of either Avitall (5,263,4930 or Koblish (2001/0020174).. Applicant's attention is directed to Figures 2-3 and paragraphs 106-109 of Falwell. Falwell fails

to disclose a distal leader member. Such a feature is well known in the art to properly locate loop electrodes as disclosed by element 22 in Avitall and as shown by the Figure 16 embodiment of Koblish. Given these teachings, it would have been obvious to the skilled artisan to add such a leader member to either Falwell to permit more effective locating of the loop electrodes.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hall et al (6,652,517) or Bowe (7,013,169) in view of either Avitall (5,263,4930 or Koblish (2001/0020174) as set forth supra, and further in view of Fung et al (6,602,242). The primary references fail to disclose a fluid lumen and reservoir coupled thereto. Such a feature is well known in the art as disclosed by Fung et al (see the abstract). Given this teaching, it would have been obvious to the skilled artisan to add such a feature to either Hall et al or Bowe to enable irrigation or other fluid to be delivered to the treatment area.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Hall et al (6,652,517), Bowe (7,013,169), or Falwell (2006/0241366) in view Koblish (2001/0020174). The use of Koblish with these references is detailed supra. Koblish also discloses that radio-opaque markers (146,148) are well known in the art. Given these teachings, it would have been obvious to the skilled artisan to add such a feature to the leader member to permit more effective locating of the leader member for proper positioning the loop electrodes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lee S. Cohen
Primary Examiner
Art Unit 3739

/Lee S. Cohen/
Primary Examiner, Art Unit 3739
February 13, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 23 2009

OFFICE OF PETITIONS

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

In re Application of :
Mark T. Stewart et al :
Application No. 10/837,947 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. P0008417.08 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 10, 2009, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3739 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-06

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/837955 Patent No.: 6977036

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Drawings / claims

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

1745

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/2007

TO SPE OF : ART UNIT 2800 (2814)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,951,777

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location 7580 or forward *(IFW) to scanning using document code **COCX**.

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

The changes made do not introduce any new matter issues or change the scope/ meaning of the claims.

_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/2007

TO SPE OF : ART UNIT 2800 (2814)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,951,777

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes made do not introduce any new matter issues or change the scope/meaning of the claims.

[signature]
SPE

2814
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090304

DATE : March 04, 2009

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7443520 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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:

Spelling errors were created during publication.

/Mark K Zimmerman/
Supervisory Patent Examiner, Art Unit 2625

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Hal H. Ottesen	: DECISION ON REQUEST FOR
Patent Number	: 7590293	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/837,981	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1520** 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

ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 06/28/2010

Applicant	: Philip Swan	: DECISION ON REQUEST FOR
Patent Number	: 7633549	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/837,991	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1320** 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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
Estevez et al. :
Application No. 10/837,995 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket Number: TI-36901

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of December 1, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 2, 2006. A Notice of Abandonment was mailed on June 15, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMIN & TUROCY, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND OH 44114

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Klein et al. :
Application No. 10/838,007 : DECISION ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. :
418D/SYMBP158USA :
Title of Invention: METHOD AND :
SYSTEM FOR REMOTE BROWSING :
OF COMPUTER FILES USING A BAR
CODE READER

This is a decision on the petition under 37 CFR §1.137(b), April 13, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on July 13, 2004. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 14, 2004. A Notice of Abandonment was mailed on April 8, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner.

The Office acknowledges receipt of the replacement drawings.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 05 2005

James L. Tom
6651 Colton Blvd.
Oakland CA 94611

In re Application	:	
James L. Tom	:	
Serial No.: 10/838,012	:	DECISION ON PETITION
Filed: June 27, 2005	:	
For: Neck Exercise Apparatus	:	

This is in response to applicants' petition filed June 27, 2005, 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. 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 Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 272-8300.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060907

DATE : September 7, 2006

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

NINI F. LEGESSE
PRIMARY EXAMINER

SPE: Gene Kim **Art Unit** 3711
EUGENE KIM
SUPERVISORY PATENT EXAMINER

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Richard M. Port et al.

Attorney Docket No. POR-101CIP

Serial No. 10/838,016

Group Art Unit: 3711

Filed: May 3, 2004

Examiners: Nini F. Legesse
Gregory Vidovich

Patent No.: 6,921,341

Issued: July 26, 2005

Title: PUTTING TRAINING AID AND CALIBRATION DEVICE

PETITION FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 C.F.R. § 1.323

MAIL STOP Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petitioners, pursuant to 37 C.F.R. § 1.323, petition for issuance of a Certificate of Correction to United States Patent No. 6,921,341, issued on July 26, 2005.

Petitioners request that a Certificate of Correction be issued correcting the following error:

In column 8, claim 16, line 7, delete "15" and insert --18--.

Request is approved 09/07/06 (NFL)

JUN 28 2006

Remarks

A copy of a proposed Certificate of Correction is enclosed herewith. Please charge Deposit Account No. 10-0270 for the filing fee of $100. If this sum is incorrect, please debit or credit this Deposit Account with the difference.

Dated: June 20, 2006

Respectfully submitted,

John E. Munger
Reg. No.: 37,685

Jansson, Shupe, Munger & Antaramian, Ltd.
245 Main Street
Racine, WI 53403-1034
(262) 632-6900
Atty. Docket No.: POR-101CIP

JUN 28 2006

DOC Code: COCIN

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,921,341

Page 1 of 1

APPLICATION NO. : 10/838,016

ISSUE DATE : July 26, 2005

INVENTOR(S) : Richard M. Port et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 8, claim 16, line 7, delete "15" and insert --18--.

MAILING ADDRESS OF SENDER (Please do not use customer number

John E. Munger, Reg. No. 37,685
Jansson, Shupe, Munger & Antaramian, Ltd.
245 Main Street
Racine, WI 53403

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 the 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.

JUN 28 2006

Doc

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	

Application Number	10/838,016
Filing Date	May 3, 2004
First Named Inventor	Richard M. Port et al.
Art Unit	3711
Examiner Name	Legesse
Attorney Docket Number	POR-101CIP

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☒ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please identify below):
  Proposed Certificate of Correction Return Postcard

Remarks

Certificate of Correction
JUN 27 2006

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Jansson, Shupe, Munger & Antaramian, Ltd.		
Signature	John E Munger		
Printed name	John E. Munger		
Date	June 20, 2006	Reg. No.	37,685

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria,VA 22313-1450 on the date shown below:

Signature	John E Munger		
Typed or printed name	John E. Munger	Date	~~June 20, 2006~~ June 20, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JUN 28 2006

- UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

JUN 2 2005

JEFFREY R. LADE, ATTORNEY AT LAW
13558 Silverstone Drive
Fishers, IN 46038

In re application of
Robert Frederick Hipple JR. et al :
Application No. 10/838,028 : **DECISION ON REQUEST**
Filed: May 03, 2004 : **FOR WITHDRAWAL OF**
For: ROOF RACK REMINDER : **ATTORNEY**

This is a decision on the request filed on May 09, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as Moot**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; JEFFREY R. LADE, does not now have, and apparently never has had, power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request, only designated as a correspondence address.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 05/31/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE GROSSKREUZ HECHTEL, ESQ.
2 MEROKE TRAIL
PORT JEFFERSON, NY 11777

COPY MAILED

JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Levine et al.	:	
Application No. 10/838,033	:	DECISION ON PETITION
Filed: May 3, 2004	:	
Attorney Docket No. 1300-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525.00 extension of time fee submitted on December 3, 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) 272-3206.

This matter is being referred to Technology Center 2621 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/838036	:	DECISION
Filing or 371(c) Date: 05/03/2004	:	ON PETITION
Patent No.: 7,018,085	:	
Issue Date: 03/28/2006	:	
Title of Invention:	:	
ILLUMINATION DEVICE AND	:	
REFLECTION TYPE LIQUID CRYSTAL	:	
DISPLAY DEVICE USING THE SAME	:	

This is a decision on the "Petition Pursuant to 37 CFR 3.81(b)," filed March 29, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that SAMSUNG ELECTRONICS CO., LTD., is the assignee of record[1]. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Petitioner is advised that, in patented files: requests for

[1] In the case of a division or continuation application, a prior assignment recorded against the original application is applied (effective) to the division or continuation application because the assignment recorded against the original application gives the assignee rights to the subject matter common to both applications. MPEP 306.

changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence. 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.

Office records reveal that a Certificates of Correction was issued on May 1, 2007, correcting the name of the assignee on the front page of the above-identified patent. The file is being referred to the files repository.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Mark Balderama	: DECISION ON REQUEST FOR
Patent Number	: 7654492	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/838,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6895677	2005-05-24	10/838,057	2004-05-03	

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	/Brian K. Dinicola/	Date (YYYY-MM-DD)	2010-02-02
Name	Brian K Dinicola	Registration Number	36122

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6895677
Issue Date: May 24,2005
Application No. 10838057
Filed: May 3,2004
Attorney Docket No. FDLS-4

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 2,2010 ,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 February 2,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 0 8 2006

OFFICE OF PETITIONS

CHA & REITER
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of :
Sang-Ho Kim et al :
Application No. 10/838,061 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. 5000-1-555 :

This is a decision on the petition, filed June 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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 N tice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2878 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : June 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Sang-Ho Kim et al
Application No. :10/838,061
Filed :May 3, 2004

The above-identified application has been assigned Patent No. 7,067,799 and an issue date of June 27, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 27, 2006:

> "All reference to Patent No. 7,067,799 to Sang-Ho Kim et al of Korea for CONNECTOR AND IMAGE SENSOR MODULE USING THE SAME appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of

Bernhard Geiger

Application No. 10/838,064

Filed: May 3, 2004

Attorney Docket No. 2003P06576US01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the Notice of Non-Compliant Amendment mailed August 21, 2006. The petition was filed October 16, 2006.

The petition is **granted**.

The above-cited application was filed May 3, 2004. The review of the application file history reveals that an amendment was filed on August 14, 2006. The amendment cited application serial number 10/838,064, but that all other identifiers, i.e., inventor name, invention title, etc., did not match application serial number 10/838,064. Notwithstanding, a Notice of Non-Compliant Amendment was issued on August 21, 2006, based on the amendment erroneously placed in application 10/838,064.

The instant petition was filed on October 16, 2006, to have the Notice of Non-Compliant Amendment withdrawn. The evidence is clear that the amendment filed August 14, 2006, was erroneously associated with the application 10/838,064. Accordingly, the Notice of Non-Compliant Amendment mailed August 21, 2006, is withdrawn as to application 10/838,064. The amendment filed August 14, 2006, will be removed from application serial number 10/838,064 and associated with application serial number 10/838,074.

The application file is being forwarded Technology Center 3700, GAU 3739, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 14 2005

ILYA ZBOROVSKY
Ely Zborovsky Patent Bureau
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of	:	
Zhadanov et al	:	
Serial No.: 10/838,068	:	DECISION ON PETITION
Filed: May 4, 2004	:	
For: Body Rubbing Device	:	

This is in response to applicants' petition filed April 2, 2005 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. 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 Frederick Schmidt, by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ILYA ZBOROVSKY
ELY ZBOROVSKY PATENT BUREAU
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

COPY MAILED

JUL 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Zhadanov et al. :
Application No. 10/838,068 : ON PETITION
Filed: May 4, 2004 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 7, 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 December 8, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. Therefore, as the petition is not signed, the petition is considered to not contain a proper statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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

ILYA ZBOROVSKY
Ely Zborovsky Patent Bureau
6 Schoolhouse Way
Dix Hills NY 11746

COPY MAILED

OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Zhadanov et al. :
Application No. 10/838,068 : DECISION ON PETITION
Filed: May 4, 2004 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a previously filed amendment received on November 11, 2006; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 7, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3764 for appropriate action on the previously filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ILYA ZBOROVSKY
ELY ZBOROVSKY PATENT BUREAU
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

MAILED

APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhadanov et al.	:	DECISION ON PETITION
Application No. 10/838,068	:	TO MAKE SPECIAL
Filed: May 3, 2004	:	37 CFR 1.102(C)
Title: Body Rubbing Device	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, 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 hereby **DISMISSED AS MOOT.**

Petitioner has previously submitted a petition to make special based on applicant's age on April 2, 2005. The April 2, 2005 petition was granted on June 14, 2005. Petitioner is advised that this application continues to be special throughout its entire prosecution and pendency including interference or appeal.

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

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

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

Mail Date: 04/30/2010

Applicant	: Mansoor Ali Khan Alicherry	: DECISION ON REQUEST FOR
Patent Number	: 7609624	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/838,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **972** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application of
Deepak P. Ahya et al.
Application No. 10/838,105
Filed: May 3, 2004
Att'y Docket No. 7463-47(CE11913JSW)

: DECISION GRANTING PETITION

This is a decision on the petition filed August 24, 2004, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application mailed August 11, 2004, requesting that the above identified application be accorded a filing date of May 3, 2004.

On May 3, 2004, the application was filed.

On August 11, 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 and that the filing date of the application would be the date of receipt of the drawings.

In response, on August 24, 2004 the present petition, and 2 sheets of drawings were filed. Petitioners argue that 2 sheets of drawings containing Figures 1-3 were filed with the other application papers on May 3, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of May 3, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 2 sheets of drawings, was supplied with the present petition. Petitioner has also supplied a copy of 2 sheets of drawings. Petitioner requests that the application, including 2 sheets of drawings, be accorded a filing date of May 3, 2004.

Upon review of the record, no sheets of drawings deposited on May 3, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on May 3, 2004, included 2 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 2 sheets of drawings, was complete on filing and entitled to a filing date of May 3, 2004.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed August 11, 2004, is withdrawn. Therefore, no petition fee is due and none has been charged.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of May 3, 2004, using the application papers filed on May 3, 2004 and the 2 sheets of drawings supplied on August 24, 2004.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

COPY MAILED

DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Julian Decuir :
Application No. 10/838,107 :
Deposited: May 3, 2004 :
Attorney Docket No.: DECIR-004A :

DECISION GRANTED

This is a decision on the "Petition under 37 CFR 1.182 to Obtain Filing Date" filed October 15, 2004, requesting that the above-identified application be accorded the filing date of May 3, 2004.

Application papers in the above-identified application were deposited on May 3, 2004. However, on August 11, 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, 15 sheets of drawings, including figures 1-9 and the present petition were filed on October 15, 2004. The petition contends that the application as filed included 15 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "Drawings (15 Pages)" on May 3, 2004.

Applicant's postcard receipt is prima facie[2] evidence that

---

[1] See 35 U.S.C. 111(a)(4)

[2] 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. See MPEP 503.

drawings were received on May 3, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 15 sheets of drawings, including figures 1-9, were received on May 3, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on October 15, 2004, will be used for processing and examination purposes.

The $130.00 petition fee will be refunded to deposit account 19-4330.

The Office acknowledges receipt of an executed declaration.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of May 3, 2004**, using the 15 sheets of drawings supplied on October 15, 2004.

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 AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

EDWARD ETKIN, ESQ.
Law Office of Edward Etkin, PC
228 West End Avenue, Suite A
Brooklyn NY 11235

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Vladimir Bednyak :
Application No. 10/838,110 : DECISION ON PETITION
Filed: May 3, 2004 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 1025-3 :
Title: APPARATUS AND METHOD FOR :
PROVIDING ELECTRICAL ENERGY :
GENERATED FROM MOTION TO AN :
ELECTRICALLY POWERED DEVICE :

This is a decision on the petition filed on January 5, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed July 9, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 10, 2004. A notice of abandonment was mailed on March 30, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed

from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that a response to the notice of missing parts was timely submitted to the Office via facsimile transmission on August 30, 2004, along with a change of address. Petitioner has further asserted that the notice of abandonment was not received.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing, provided an additional copy of the previously submitted correspondence, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has provided a copy of this response, and it is noted that the response bears a certificate of facsimile transmission dated August 30, 2004. It is further noted that this submission was transmitted to a facsimile number other than the central facsimile number. As such, this submission was made in contravention to the centralized delivery policy that has been in effect since December 1, 2003. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The fee associated with the filing of additional claims has been charged to Petitioner's Deposit Account, as authorized in the petition.

The concurrently filed petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED AS MOOT**. The associated fee will be refunded via the mailing of a Treasury Check in due course.

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

The general phone number for OIPE is 571-272-4000. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET, SUITE 2490
EAST ROCHESTER, NY 14445-2408

COPY MAILED

MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang et al	:	
Application No. 10/838,116	:	DECISION ON PETITION
Filed: May 3, 2004	:	TO WITHDRAW
Attorney Docket No. XW-685	:	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 6, 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 Howard J. Greenwald on behalf of all attorneys of record who are associated with Customer No. 37282.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Nanoset, LLC
349 West Commerical Street, Suite 2490
East Rochester, NY 14445

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

JUL 20 2004

DAVIDSON, DAVIDSON & KAPPEL, LLC
14TH FLOOR
485 SEVENTH AVENUE
NEW YORK NY 10018

In re Application of	:
John P. Blass	:
Serial No.: 10/838,128	: PETITION TO MAKE SPECIAL
Filed: May 3, 2004	:
Attorney Docket No.: 879.1001	:

This is in response to applicants' petition filed June 17, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Szeto et al.	:	
Application No. 10/838135	:	ON REQUEST FOR
Filing or 371(c) Date: 05/03/2004	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
093873-0173	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed November 24, 2009. Applicants have determined that the present patent is entitled to 1173 days, not 337 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant's requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The request is properly treated under 37 CFR 1.705(b).

Applicants also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after 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 to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee is required for reconsideration of the patent term adjustment. Thus, the request for refund of the fee is DISMISSED.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
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.

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

MILES & STOCKBRIDGE, PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

COPY MAILED

DEC 2 7 2007

OFFICE OF PETITIONS

In re Patent No. 7,077,254 :
Issue Date: July 18, 2006 :
Application No. 10/838,187 : ON PETITION
Filed: May 5, 2004 :
Patentee(s): Hirobumi Shirataki, et. al. :

This is a decision on the request for Certificate of Correction under 37 CFR 1.323 filed March 14, 2007, 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.

Since the request is found to be in compliance with 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing 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* 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

Troxell Law Office PLLC
Suite 1404
5205 Leesburg Pike
Falls Church, VA 22041

COPY MAILED

JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Hsiao et al. :
Application No. 10/838,210 : ON PETITION
Filed: May 5, 2004 :
Attorney Docket No. 3249-12 :

This is a decision on the petition filed September 8, 2004, to accord the above-identified application a filing date of May 5, 2004.

On May 5, 2004, the application was filed.

On July 12, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on May 5, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 4 sheets of drawings on May 5, 2004.[1] Petitioner has also submitted a copy of the missing documentation- 4 sheets of drawings.

Upon review of the record, the drawings deposited on May 5, 2004, has not been located. However, the evidence is convincing that the application papers deposited on May 5, 2004, included 4 sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of May 5, 2004.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

A refund of the petition fee will be scheduled.

The Notice mailed July 12, 2004, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 5, 2004, using the application papers filed on May 5, 2004,and the copy of the 4 sheets of drawings filed on September 8, 2004.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

Troxell Law Office PLLC
Suite 1404
5205 Leesburg Pike
Falls Church, VA 22041

COPY MAILED

FEB 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hsiao et al. :
Application No. 10/838,210 :
Filed: May 5, 2004 :
Attorney Docket No. 3249-12 :

This is a decision on the petition filed September 8, 2004, to accord the above-identified application a filing date of May 5, 2004.

On May 5, 2004, the application was filed.

On July 12, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on May 5, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 4 sheets of drawings on May 5, 2004.[1] Petitioner has also submitted a copy of the missing documentation- 4 sheets of drawings.

Upon review of the record, the drawings deposited on May 5, 2004, has not been located. However, the evidence is convincing that the application papers deposited on May 5, 2004, included 4 sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of May 5, 2004.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

A refund of the petition fee will be scheduled.

The Notice mailed July 12, 2004, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 5, 2004, using the application papers filed on May 5, 2004,and the copy of the 4 sheets of drawings filed on September 8, 2004.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Kristin K. Vidovich
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/838213 received on 05/21/04 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Kristin K. Vidovich
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/838213 received on 05/21/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOFFMAN WASSON & GITLER, P.C.
CRYSTAL CENTER 2
SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202

COPY MAILED

SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
David C. Drewett et al	:	
Application No. 10/838,216	:	DECISION ON PETITION
Filed: May 5, 2004	:	TO WITHDRAW
Attorney Docket No. A-8959	:	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 23, 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 Mitchell B. Wasson 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 David Drewent at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: David Drewent
1024 Aron Circle
Nokomis, FL 34275

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 23 2009

Technology Center 2100

Keith P. Taboada
PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue
Suite 100
Shrewsbury NJ 07702

In re Application of:
Chi-Cheng Ju
Serial No.: 10/838,247
Filed: May 5, 2004
Docket: IPT/0003

Title: SCALABLE SYSTEM FOR INVERSE DISCRETE COSINE TRANSFORM AND METHOD THEREOF

DECISION ON PETITION TO RESTART THE REPLY PERIOD AND REFUND OF EXTENSION FEES

This is a decision on the Petition to restart the period for response filed on December 19, 2008 and on a request for a refund of extension fees paid by Petitioner.

The request for a restart of the period for response is **MOOT**.

The request for a refund of extension fees paid is **DISMISSED**.

On May 22, 2008, a new power of attorney was filed. Petitioner alleges that while the Office received the change of power of attorney, the change was not timely implemented. As a result, an Office Action dated July 24, 2008 was mailed to the former correspondence address. Petitioner acknowledges that the Action was in fact never received at the correct address.

Petitioner filed this petition within two weeks of becoming aware of the Office Action and retrieved a copy of the Action from PAIR.

A review of records associated with the application identified above confirms that a change of address was indeed received by the Office but not timely entered and that the subsequent Office Action was mailed to the former correspondence address.

A decision on the petition to restart the period for response was not received by Applicant prior to the six month deadline to reply to the Office Acton mailed July 24, 2008. Petitioner therefore paid a three-month extension fee in order to avoid a holding of abandonment.

With respect to the request to restart the period for response, this request is in fact MOOT since acknowledged in the Request for Refund, a three month extension for reply was in fact filed.

However, it is acknowledged that errors on the part of the Office caused the Action dated July 24, 2008 to be mailed to the wrong address, and that a timely decision on the request for a restart of the period for reply would have negated the need for Petitioner to file a request for a three month extension.

The request for a refund of extension fees paid is DISMISSED. All requests for refunds should be presented to the Office of Finance.

The Office apologizes for any inconvenience caused by the delay.

Any inquiry regarding this decision should be directed to Gail Hayes, Quality Assurance Specialist, at (571) 272-3591.

____/Gail Hayes/_____
Gail Hayes
WQAS 2110
Technology Center 2100
Computer Architecture, Software and Information Security

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.
10/838,247	05/05/2004	Chi-Cheng Ju	IPT/0003	4170

68164 7590 09/23/2009

PATTERSON & SHERIDAN, LLP - - - IPTEC
3040 Post Oak Boulevard
Suite 1500
Houston, TX 77056-6582

EXAMINER	
DO, CHAT C	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
09/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

COPY MAILED

SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Mary Rose Woodhead, et. al. :
Application No. 10/838,287 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. C70237D1C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 6, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record fails to show that the above application is abandoned. Therefore, the petition to revive is unnecessary and the petition fee will **not** be charged to petitioner's deposit account. However, if petitioner's records show that this application is or should be abandoned, he must notify the Office immediately.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

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: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/838,289	05/03/2004	1636	511	CWRU-P01-040	21	34	3

CONFIRMATION NO. 3994

28120
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

CORRECTED FILING RECEIPT

OC000000014181821

Date Mailed: 10/25/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jinming Gao, Pepper Pike, OH;
Hua Ai, Cleveland, OH;

Assignment For Published Patent Application

Case Western Reserve University, Cleveland, OH

Power of Attorney: The patent practitioners associated with Customer Number **28120**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/502,429 09/12/2003
and claims benefit of 60/467,389 05/02/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/838,289

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Drug delivery system based on polymer nanoshells

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).

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.go

Paper No.

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Gao et al. :
Application No. 10/838,289 :
Filed: May 3, 2004 : ON PETITION
Attorney Docket No. :
CWRU-P01-040 :

This is a decision in response to the Petition to Correct Filing Date Under 37 CFR 1.10, filed September 7, 2004, requesting the application be accorded a filing date of May 3, 2004. This Decision also corrects the priority claim data.

This Petition is hereby **dismissed as moot.**

Petitioner alleges that the application was deposited in Express Mail service on May 3, 2004. A review of Office records reveal that the filing date accorded this application is May 3, 2004.

In view of the above, the petition is dismissed as involving a moot issue.

A review of Office records reveal that the Applicant made a proper claim of priority to provisional Application no. 60/467,389 on filing; however, Office records failed to note the claim. Office records have been corrected to reflect the priority claim to provisional Application no. 60/467,389.

A corrected filing receipt accompanies this Decision.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

Enclosure: Corrected Filing Receipt

DATE 9/14/07

APPLICATION NUMBER 10/838,307

DOC CODE Ref. Dec. TC

DOC DATE 9/17/09

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN H. THOMAS, P.C.
536 GRANITE AVENUE
RICHMOND, VA 23226

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Michael Howard Garman :
Application No. 10/838,307 : DECISION ON PETITION
Filed: May 4, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. HAMBE 157 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed April 11, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1761 for action on the merits commensurate with this decision.

Irvin Dingle
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

Fish & Neave
Customer No. 1473
1251 Avenue of the Americas
New York, NY 10020-1105

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/838327 received on 05/21/04 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/15/04

Kristin K. Vidovich
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/838327 received on 05/21/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRUCE H. TROXELL
TROXELL LAW OFFICE PLLC
5205 LEESBURG PIKE, SUITE 1404
FALLS CHURCH, VA 22041

COPY MAILED

APR 21 2009

OFFICE OF PETITIONS

In re Application of :
Chin I. Ming :
Application No. 10/838,355 : ON PETITION
Filed: May 5, 2004 :
Attorney Docket No. BHT-3199-38 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) 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 February 10, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The petition received on August 6, 2007 is signed by the assignee and it is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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
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) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Shu-Fen Jan
P.O. Box 108-00403
Taipei 106
Taiwan, R.O.C.

Attachment: blank 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Pui Kuong Lui	:	
Application No. 10/838,357	:	DECISION GRANTING PETITION
Filed: May 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. BHT-3244-53	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 11, 2006, as required by the Notice of Allowance and Fee(s) Due mailed April 11, 2006. A Notice of Abandonment was mailed on August 17, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($700 and $300, respectively); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP J. LEE
SUITE 525
10050 REGENCY CIRCLE
OMAHA, NE 68114

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Arthur Nadel	:	
Application No. 10/838,361	:	ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. 7041.P35	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 12, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 13, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

COPY MAILED

OCT 10 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cabral et al. :
Application No. 10/838,378 :
Filed: May 4, 2004 :
Attorney Docket No. YOR920030613US1 :
(17277)

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 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 fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

The address given on the petition differs from the new correspondence address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Wolcott et al.	:	
Application No.: 10/838389	:	
Filing or 371(c) Date: 05/04/2004	:	DECISION
Attorney Docket Number:	:	ON PETITION
528-011402-US (PAR)	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed November 6, 2007. The petition is properly treated under 37 CFR §1.181(a).

The petition is **granted**

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due, mailed July 6, 2007. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on October 7, 2007. A Notice of Abandonment was mailed October 30, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2613 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

FEB 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Ramil A. Viluan et al :
Application No. 10/838,393 : ON PETITION
Filed: May 4, 2004 :
Attorney Docket No. TI-36679 :

This is a decision on the petition, filed October 2, 2006, which is being treated as a petition under 37 CFR 1.181(a) (no fee) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Restriction Requirement mailed February 9, 2006.

The petition states that a reply was timely submitted by facsimile transmission on March 8, 2006. Petitioner has provided evidence to support such.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. Additionally, since a petition under 37 CFR 1.137(b) is a moot issue in this matter, the petition fee of $1,500 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 3651, for consideration of the copy of the and response submitted with the instant petition on October 2, 2006.

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
www.uspto.gov

Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Kim & Vinokour :
Application No. 10/838,415 : DECISION ACCORDING STATUS
Filed: May 4, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. AD-243J :
For: METHOD AND SYSTEM FOR WIDENING :
THE SYNCHRONIZATION RANGE FOR A
DMT MULTICARRIER SINGLE PILOT TONE
SYSTEM

This is in response to the petition under 37 CFR 1.47(a), filed February 22, 2005 (certificate of mailing date February 18, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventor, Vitali Vinokour, cannot be located. Specifically, the declaration/statement of facts of Attorney David W. Poirier and accompanying exhibits to the petition establish that despite attempts to locate the inventor through the mail, through inquiries of his former employer and colleague, and through Internet searches, that Mr. Vinokour cannot be located. Petitioner has dilgently searched for Mr. Vinokour. Petitioner has 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.

Regarding finances, petitioner has been charged two $200 Rule 47 petition fees. Only one is necessary. $130 from the second $200 petition fee will be retained as the late oath/declaration

surcharge. The $70 balance will be credited to deposit account no. 09-0002.

After this decision is mailed, the above-identified application will be returned 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
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

VITALI VINOKOUR
38 DEAN RD., APT. 3
BROOKLINE, MA 02445

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Kim & Vinokour :
Application No. 10/838,415 :
Filed: May 4, 2004 :
Attorney Docket No. AD-243J : LETTER
For: METHOD AND SYSTEM FOR WIDENING :
THE SYNCHRONIZATION RANGE FOR A
DMT MULTICARRIER SINGLE PILOT TONE
SYSTEM

Dear Mr. Vinokour:

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: Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

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

OIPE
MAR 28 2008
PATENT & TRADEMARK OFFICE

Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

COPY MAILED
MAR 18 2005
OFFICE OF PETITIONS

In re Application of
Kim & Vinokour
Application No. 10/838,415
Filed: May 4, 2004
Attorney Docket No. AD-243J
For: METHOD AND SYSTEM FOR WIDENING THE SYNCHRONIZATION RANGE FOR A DMT MULTICARRIER SINGLE PILOT TONE SYSTEM

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

RECEIVED
MAR 21 2005
IANDIORIO & TES

This is in response to the petition under 37 CFR 1.47(a), filed February 22, 2005 (certificate of mailing date February 18, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventor, Vitali Vinokour, cannot be located. Specifically, the declaration/statement of facts of Attorney David W. Poirier and accompanying exhibits to the petition establish that despite attempts to locate the inventor through the mail, through inquiries of his former employer and colleague, and through Internet searches, that Mr. Vinokour cannot be located. Petitioner has dilgently searched for Mr. Vinokour. Petitioner has 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.

Regarding finances, petitioner has been charged two $200 Rule 47 petition fees. Only one is necessary. $130 from the second $200 petition fee will be retained as the late oath/declaration

surcharge. The $70 balance will be credited to deposit account no. 09-0002.

After this decision is mailed, the above-identified application will be returned 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
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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 04/20/2010

Applicant	: Young Han Kim	: DECISION ON REQUEST FOR
Patent Number	: 7581161	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/838,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1210** 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

COPY MAILED

AUG 0 4 2006

OFFICE OF PETITIONS

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Blvd, Seventh Floor
Los Angeles, CA 90025-1030

In re Application of :
LONG et al :
Application No. 10/838,425 : DECISION ON PETITION
Filed: May 3, 2004 : TO WITHDRAW
Attorney Docket No. 6630.P002 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 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 Ferrill on behalf of all attorneys of record who are associated with customer No. 08791.

All attorneys/agents associated with the Customer Number 08791 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor James Long at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: James Long
826 Dartshire Way
Sunnyvale, CA 94087

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

NEEDLE & ROSENBERG, P.C.
999 PEACHTREE STREET
SUITE 1000
ATLANTA GA 30309-3915

COPY MAILED
DEC 12 2006
OFFICE OF PETITIONS

In re Application of	:	
BIESER, et al.	:	
Application No. 10/838,426	:	DECISION GRANTING PETITION
Filed: May 05, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03269.0014U4	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 11, 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 November 02, 2006 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 Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 1733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ATTENTION OF DENNIS R. DALEY
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
SMITH, Kim R. et al. :
Application No. 10/838,432 : DECISION ON PETITION
Filed: May 03, 2004 : TO WITHDRAW
Attorney Docket No. **163.1269USC1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt. Sarah M. Monfeldt has been withdrawn, all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
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

SHEPPARD, MULLIN, RICHTER & HAMPTON
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

COPY MAILED

SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Zambrano et al :
Application No. 10/838,434 : ON PETITION
Filed: May 3, 2004 :
Attorney Docket No. ORZP-105616 :

This is a decision on the petition, filed September 29, 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 July 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) 272-3208.

The examiner of Technology Center AU 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : September 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Thomas Zambrano et al
Application No. :10/838,434
Filed :May 3, 2004

The above-identified application has been assigned Patent No. 6,954,005 and an issue date of October 11, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 11, 2005:

"All reference to Patent No. 6,954,005 to Thomas Zambrano et al of California for WIND TURBINE SYSTEM appearing in the Official Gazette of October 11, 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

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

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

COPY MAILED

MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Zambrano et al.	:	
Application No. 10/838,434	:	ON PETITION
Filed: May 3, 2004	:	
Attorney Docket No. 0RZP-105616	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 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; (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

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

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

COPY MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of
Zeke B. Odins et al
Application No. 10/838,462
Filed: May 3, 2004
Attorney Docket No. MS1-2069US

ON PETITION

This is a decision on the petition, filed October 16, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 30, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Bonnette et al.	:	
Application No. 10/838,468	:	ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. PS/08-021.CIP1	:	

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.**

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Hugh D. Jaeger, Esq.
150 Lake Street West, Suite 106
P.O. Box 432
Wayzata, MN 55391-0432

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

COPY MAILED

AUG 0 1 2008

In re Application of :
Murgita et al. : DECISION ON REQUEST
Application No. 10/838,476 : FOR RECONSIDERATION OF
Filed: May 4, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 06727/005004 :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT)," filed February 26, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be recalculated. The request is treated as a request pursuant to applicant's duty of good faith and candor to the Office.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is one hundred eighty-one (181) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 181 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 29, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred seventy-seven (277) days.

The Office initially determined a patent term adjustment of two hundred seventy-seven (277) days based on an adjustment for PTO delay of three hundred seventy-three (373) days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1), reduced by ninety-six (96)

days of applicant delay pursuant to 37 CFR 1.704(b) for the filing of an amendment in response to a non-final Office action on January 16, 2007, three (3) months and 96 days after the mailing of the non-final Office action on July 12, 2006.

On February 26, 2008, the issue and publication fees were filed. The subject request for reconsideration was also timely filed on February 26, 2008.

Applicants state that the PTA calculation appears to be longer than appropriate, and request that the Office recalculate the patent term adjustment.

A review of the record reveals that Applicants should have been assessed an additional delay of ninety-six (96) days. On March 29, 2007, a final rejection was mailed. Applicants in response filed a Request for Continued Examination (RCE) on October 3, 2007.

37 CFR 1.704(b) states, in pertinent part that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Therefore, Applicants should have been assessed a reduction in patent term adjustment for the period of delay from June 29, 2007, (three (3) months from the date that the final rejection was mailed on March 29, 2007), to October 3, 2007 (the date the RCE was filed), or 96 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is one hundred eighty-one (181) days (373 days of PTO delay, reduced by 192 (96+96) days of Applicant delay). To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office.

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 7/30/2008
Time: 17:29:55

PTA Calculations for Application: 10/838476			
Application Filing Date:	05/04/2004	PTO Delay (PTO):	373
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	96
Post-Issue Petitions:	0	Total PTA (days):	181
PTO Delay Adjustment:	-96		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	07/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		96	
53	01/29/2008	MAIL NOTICE OF ALLOWANCE			
52	01/29/2008	MAIL EXAMINER'S AMENDMENT			
51	01/22/2008	ISSUE REVISION COMPLETED			
50	01/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	01/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
48	01/08/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
47	01/08/2008	DOCUMENT VERIFICATION			
46	10/03/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
45	12/26/2007	EXAMINER'S AMENDMENT COMMUNICATION			
44	12/26/2007	NOTICE OF ALLOWABILITY			
43	10/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	10/11/2007	DATE FORWARDED TO EXAMINER			
41	10/03/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	10/11/2007	DATE FORWARDED TO EXAMINER			
39	10/03/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	10/11/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	10/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	10/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

35	10/03/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
34	10/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	10/01/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	03/29/2007	MAIL FINAL REJECTION (PTOL - 326)			
31	03/27/2007	FINAL REJECTION			
30	01/30/2007	DATE FORWARDED TO EXAMINER			
29	01/16/2007	RESPONSE AFTER NON-FINAL ACTION		96	27
28	01/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/12/2006	MAIL NON-FINAL REJECTION	373		-1
26	07/10/2006	NON-FINAL REJECTION			
25	05/04/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	03/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	05/04/2004	REFERENCE CAPTURE ON IDS			
22	09/27/2004	PRELIMINARY AMENDMENT			
21.7	05/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/04/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/04/2004	PRELIMINARY AMENDMENT			
19	03/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/18/2004	APPLICATION RETURN FROM OIPE			
17	10/18/2004	APPLICATION RETURN TO OIPE			
16	10/18/2004	APPLICATION RETURN FROM OIPE			
15	10/18/2004	APPLICATION IS NOW COMPLETE			
14	09/23/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
13	09/23/2004	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
12	10/04/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
11	07/12/2004	CORRECTED PAPER			
10	07/09/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	07/08/2004	APPLICATION RETURN TO OIPE			

8	07/08/2004	APPLICATION RETURN FROM OIPE			
7	07/08/2004	APPLICATION RETURN TO OIPE			
6	07/08/2004	APPLICATION DISPATCHED FROM OIPE			
5	07/09/2004	APPLICATION IS NOW COMPLETE			
4	06/07/2004	CLEARED BY OIPE CSR			
3	06/07/2004	CASE CLASSIFIED BY OIPE			
2	06/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/04/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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-06

TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

COPY MAILED

MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	DECISION ON PETITION
Application No. 10/838,480	:	TO WITHDRAW HOLDING
Filed: 3 May, 2004	:	OF ABANDONMENT
Atty Docket No. 010030-000120US	:	

This is a decision on the petition to withdraw holding of abandonment, filed 20 March, 2006, which is being treated as a request to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on 22 August, 2005, which set a three (3) month shortened statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 3 October, 2005, acknowledging receipt of three (3) pages of an amendment, and a transmittal sheet. The postcard identifies the application by first named applicant's last name, application number, filing date,[1] attorney docket number, and invention title. A copy of the Response was included with this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being

[1] The filing date of the application is recited on the postcard as "05/03/2005" while the correct filing date is 3 May, 2004. Nevertheless, in view of the evidence presented, the postcard contains sufficient identifying information to associate it with the present application.

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 that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for entry of the response to the non-final Office action. Thereafter, the application file will be forwarded to the examiner for action in due course.

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

NOV 3 2005

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:
Robert L. Diaz	:
Serial No.: 10/838,522	: PETITION TO MAKE SPECIAL
Filed: May 3, 2004	:
Attorney Docket No.: 2385.014	:

This is in response to the petition filed October 19, 2005, 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 not satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **DENIED**.

M.P.E.P. 708.02, IV states: *An application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement.* Applicant states that he is only 64 years of age and therefore does not qualify.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

NOV 3 2005

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:
Robert L. Diaz et al	:
Serial No.: 10/838,523	: PETITION TO MAKE SPECIAL
Filed: May 3, 2004	:
Attorney Docket No.: 2385.009	:

This is in response to the petition filed October 19, 2005, 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 not satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **DENIED**.

M.P.E.P. 708.02, IV states: *An application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement.* Applicant states that he is only 64 years of age and therefore does not qualify.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 0 9 2010

OFFICE OF PETITIONS

ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
JEKYLL ISLAND GA 31527

In re Application of	:	
Robert GARRETT	:	
Application No. 10/838,529	:	DECISION ON PETITION
Filed: May 5, 2004	:	TO WITHDRAW
Attorney Docket No. GARR-0011	:	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 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Robert P. Bell on behalf of all the attorneys of record.

All the attorneys of record 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 until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT GARRETT
2470 WINTERGREEN WAY
GAMBRILLS, MD 21054-1555

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
10/838,529	05/05/2004	Robert Garrett	GARR-0011

CONFIRMATION NO. 3867

POWER OF ATTORNEY NOTICE

21261
ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island, GA 31527

Date Mailed: 03/09/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2009.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

COPY MAILED

AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :

HAVERINEN, Henry et al. :
Application No. 10/838,564 : DECISION ON PETITION
Filed: May 03, 2004 : TO WITHDRAW
Attorney Docket No. 037145-4701 (NC 44577) : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the customer number (30542) does not have power in this application. The customer number (27433) has full power.

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- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MR. BRADLEY C. WRIGHT**
BANNER & WITCOFF LLP
1100 13TH STREET, NW, SUITE 1200
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P
30 Rockefeller Plaza
New York NY 10012-4498

COPY MAILED

MAR 14 2008

OFFICE OF PETITIONS

In re Application of :
Hirofumi Ohtsuka et al. :
Application No. 10/838,552 : DECISION ON PETITION
Filed: May 4, 2004 : TO WITHDRAW
Attorney Docket No. A33452 PCT USA-I : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kratz, Quintos and Hanson LLP**
1420 K Street, N.W.
Suite 400
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILDMAN HARROLD ALLEN & DIXON
225 WEST WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Vickie L. Dawson et al :
Application No. 10/838,558 : NOTICE
Filed: May 4, 2004 :
Attorney Docket No. SEC-22 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8680.

This file is being referred to the Office of Initial Patent Examination Division.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GROSSMAN TUCKER PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

COPY MAILED

JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Liusheng Liu et al :
Application No. 10/838,563 : DECISION GRANTING PETITION
Filed: May 4, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02MICRO 02.04CON :

This is a decision on the petition, filed June 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

OCT 0 6 2008

OFFICE OF PETITIONS

In re Application of :
HAVERINEN, Henry et al. :
Application No. 10/838,564 : DECISION ON PETITION
Filed: May 03, 2004 : TO WITHDRAW
Attorney Docket No. **037145-4701 (NC 44577)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008 and re-submitted on September 22, 2008.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on September 10, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BANNER & WITCOFF, LTD.**
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

COPY MAILED

JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Brian Simmons :
Application No. 10/838,573 : DECISION ON PETITION
Filed: May 4, 2004 : TO WITHDRAW
Attorney Docket No. 00321000796 : 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 25, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on October 25, 2005 provides no reasons for withdrawal, the Office cannot at this time determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request for Withdrawal as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Brian Simmons
1502 Lincoln
Mansfield, TX 76063

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

ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

COPY MAILED

JUL 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Mitchell et al. :
Application No. 10/838,575 : DECISION ON PETITION
Filed: May 4, 2004 :
Attorney Docket No. 7360.US.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 11, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

A fee of $2,160.00 was charged to deposit account 01-0025 for a five month extension of time. Since such an extension of time is not required in addition to the petition fee, $2,160.00 will be refunded to deposit account 01-0025.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571)272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3738 for appropriate action by the Examiner in the normal course of business on the reply received July 14, 2006.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

ZVI REGEV
24217 HIGHLANDER RD.
WEST HILLS, CA 91307

In re Application of	:	
Zvi Regev	:	
Application No. 10/838,580	:	ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. None	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2007. A Notice of Abandonment was mailed February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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 extension of time fee submitted on October 9, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3752 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: MICHAEL BERGMAN
BERGMAN & SONG, LLP
P.O. BOX 400198
CAMBRIDGE, MA 02140

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 0 5 2009

Jerry L. Hefner
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of	:
Lebl	:
Serial No.: 10/838,582	:DECISION ON PETITION
Filed: May 3, 2004	:
Attorney Docket No.: ILLINC.065C1 (IP-0192-US)	:

This letter is in response to the Petition filed under 37 C.F.R. 1.144 filed on January 26, 2009 requesting review and withdrawal of the restriction requirement mailed on May 15, 2008.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On November 14, 2006, the examiner mailed a non-final Office action in which claims 33-52 were searched and examined. Claim 51 was rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness; claims 33-35 and 37-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebl 1998 in view of US 4412973 and Spyder Technology 1999; claim 42 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebl 1998 and US 4412973 and further in view of US 3712535; claims 43-48 and 51-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebl 1998 in view of US 3712535 and Spyder Technology 1999; claim 50 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebl 1998 and Spyder Technology 1999 and further in view of US 4412973; claims 33-35, 37-48, and 50-52 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims in US 6121054; claims 36 and 49 were objected to as being dependent upon a rejected base claim.

On February 14, 2007, applicants submitted an amendment addressing the grounds of rejection.

On June 7, 2007, the examiner mailed a second non-final Office action in which claims 33-52 were searched and examined. Claims 33-37 and 40 were rejected under 35 U.S.C. § 102(b) as being anticipated by US 5186824; claims 38-39 and 41-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US 5186824 in view of Marziali 1999 and US 3712535; claims 43-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US5186824 in view of Marziali 1999 and US 3712535 and further in view of US 4412973; and claims 33-35, 37-48, and 50-52 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims in US 61221054.

On December 7, 2007, applicants submitted an amendment addressing the grounds of rejection.

On May 15, 2008, the examiner mailed a restriction requirement in which claims 33-52 were restricted into two groups as follows:

I. Claims 33-42, directed to a method for elimination of a liquid phase from a reaction.

II. Claims 43-52, directed to a method of synthesizing compounds.

The examiner further required applicants to elect a species of (a) peptide or (b) nucleic acid.

On July 2, 2008, applicants elected Group I, claims 33-42, with traverse, and the species of nucleic acid without traverse.

On October 31, 2008, the examiner addressed the traversal and made the requirements final. The examiner indicated that the whole of the traversal, including the election of species, was being treated as an election with traverse. The examiner withdrew claims 35 and 43-52 from further consideration as being directed to nonelected subject matter. The examiner mailed to applicants a non-final Office action, in which claims 33, 34, 42, and 69 were searched and examined on the merits. It is noted that the Office Action Summary form fails to indicate the disposition of claims 36-41 and incorrectly indicates that claim 69 is rejected. However, there is no claim 69 in the application. Claims 33, 34, 36, 37, and 40 were rejected under 35 U.S.C. § 102(b) as being anticipated by US 5186824. It is noted that the rejection incorrectly refers to withdrawn claim 35 at the top of page 4. Claims 33, 34, and 37-42 were rejected on the ground of nonstatutory obviousness-type double patenting over claims in US 6121054; claims 33, 34, and 36-42 were rejected under 35 U.S.C. § 112, first paragraph, for inadequate written description; claims 33, 34, 36, 37, 39, and 40 were rejected under 35 U.S.C. § 102(b) as being unpatentable over Promega Wizard 1997; claims 33, 34, and 36-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Promega Wizard 1997 in view of US 6063596. The examiner addressed applicants' arguments as they pertained to the maintained rejections.

On January 26, 2009, applicants submitted the instant petition.

DISCUSSION

The petition and file history have been carefully considered, relative to the claims as currently pending.

Independent claims 33 and 43 are set forth below as currently pending.

33. (Currently amended) A method for elimination of a liquid phase from a reaction vessel, said method comprising:

(a) providing a centrifuge rotor having a reaction vessel and a material firmly attached to said reaction vessel, said material functionalized in order to attach compounds thereto;

(b) filling said reaction vessel with a liquid; and

(c) spinning said centrifuge rotor at a speed so that the liquid is expelled from said ~~vessels~~ reaction vessel such that said material is not expelled during centrifugation.

43. (Original) A method of synthesizing compounds, said method comprising:

(a) providing a centrifuge rotor having a reaction vessel and a first building block coupled to said reaction vessel;

(b) adding a second building block to said reaction vessel; and

(c) spinning said centrifuge rotor at a speed sufficient to expel said liquid from said vessel.

As noted in the petition of January 26, 2009, the examiner has not provided a reason why examination of all of the claims posed a serious search burden other than reproducing a form paragraph from the restriction requirement mailed May 15, 2008. The examiner also did not address why a serious search burden existed despite all of the claims being searched and examined on the merits twice before.

Furthermore, it is noted that US 5186824 was applied as prior art in the Office action mailed June 7, 2002 (before the restriction requirement) as well as the Office action mailed October 31, 2008 (following the restriction requirement). US 5186824 teaches a method for eliminating a liquid phase from a reaction as well as a method of synthesizing compounds. Therefore, the examiner has not established a serious search burden to justify maintaining the restriction requirement.

DECISION

The petition **GRANTED** for the reasons set forth above.

The restriction requirement mailed May 15, 2008 and the Office action of October 31, 2008 are hereby vacated.

The application is being forwarded to the examiner for examination of claims 33-52 consistent with this decision and for the preparation of an Office action which addresses the amendment of December 7, 2007.

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.

Remy Yucel
Director, Technology Center 1600

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

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: Stephane Jean Marie Olivier	: DECISION ON REQUEST FOR
Patent Number	: 7658886	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/838,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of	:
Mohamed K. Diab, et al.	: DECISION ON PETITION
Application No.: 10/838,593	: UNDER 37 CFR 1.183
Filed: May 4, 2004	: SEEKING WAIVER OF
For: Signal Processing Apparatus	: REQUIREMENTS UNDER
Attorney Docket No. MASIMO.7CP1C9C1	: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 mailed on June 15, 2005, concurrently with an Information Disclosure Statement (IDS) in the above referenced application. The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 and § 1.52 provisions which require filing a paper copy of each reference cited in an IDS. The request for waiver is made in view of the need to file the same IDS copies in multiple applications relating to different aspects of a particular invention. A paper copy of the references was filed in application no. 10/779,033 on June 2, 2005.

The petition under 37 CFR 1.183 requesting relief to file a single paper copy of IDS references is **GRANTED** to the extent set forth below.

The instant application filed under 35 U.S.C. 111 is one of 12 U.S. applications related to patent families in litigation. The references cited in the IDS are references arising from the litigation.

Applicants' submission of an IDS is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an IDS in the manner prescribed by 37 CFR 1.97 and 1.98.

37 CFR 1.98 requires that any IDS provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. All papers filed in an application are required to be in paper by 37 CFR 1.52(a) unless they are under filed under some other provision of the rules or a waiver of the rules. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP § 609 (8th Ed. Rev. 2, May 2004), pages 600-122 and 600-123.

Applicants note that the instant application is one of 12 applications that are part of patent families or claim benefit of a parent patent in the same litigation.

Rather than be required to submit, via a paper copy, five boxes of foreign patent and non-patent literature references in each of 12 applications, Applicants seek to have:

(1) The earlier filed single paper copy in application no. 10/779,033 of each IDS citation fulfill the requirement for a paper copy in all 12 applications;

(2) One application (application no. 10/779,033) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application; and

(3) The other related pending U.S. applications (the "bulk filing" applications), be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent). The Office may choose at its option to provide electronic access or provide a copy of each reference in the "bulk filing" applications.

A review of Office records indicates that the instant application and the '033 application are both Image File Wrapper (IFW) applications. Also, since the '033 application has been published all the copies of the references in IFW are readily available to the public. Accordingly, the Office can provide an image copy of all of the IDS references from the holding application to the instant application.

Applicants' set of petitions appears to contain typographical errors noted below; while none of these errors affect the merit of any of the petitions, Applicants are requested to correct their records so as to prevent further confusion. First, the petition for application no. 09/111,604 is erroneously captioned as "09/110,604." Additionally, each petition incorrectly cites application no. 10/677,050 as "10/667,050" and incorrectly cites application no. 11/003,231 as "11/003,321."

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicants be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 12 applications, but also the Office would benefit from not having to handle and store the duplicative sets of

copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below. Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications only for non-patent literature and foreign patents provided that the following five conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in the holding application.

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application.

Note: Applicants are not required to cite in each bulk filing application every item of information that is cited in the holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

Also note: A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the holding application.

3) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

4) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicants may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

5) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
Attn: Office Patent Legal Administration/Samuel Broda

Telephone inquiries should be directed to Samuel Broda at (571) 272-7711.

Samuel Broda for

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 0 1 2006

John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: DAIB et al.	:
Appl. No.: 10/838,593	: DECISION ON PETITION
Filed: May 4, 2004	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on November 21, 2005 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed November 21, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The document in question will not be available to the public during prosecution.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

JAN 08 2007

In re Application of: DAIB et al. :
Appl. No.: 10/838,593 : DECISION ON PETITION
Filed: May 4, 2004 : Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS :

This is a response to the petition under 37 CFR 1.59(b), filed on November 21, 2005 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed November 21, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The material has been shredded.

Petition to expunge GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03 1709

DATE : 03/11/09
TO SPE OF : ART UNIT **2836 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/838,600** Patent No.: **7,301,250**
Attn: Michael Rutland-Wallis

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)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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 APPLY CHANGES: identified by Applicant to Column 10 on page 1 of the Certificate of Correction or Column 12 on page 2 of the Certificate of Correction. The changes which have been denied directly effect and change the scope of the claims of Applicant's invention. The only changes which have been approved are those to column 4 and 6 on page 1 the Certificate of Correction

/Michael Rutland-Wallis/

3/16/2009

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

3/17/09 — SPE

2836 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LACKENBACH SIEGEL
One Chase Road
Scarsdale, NY 10583

COPY MAILED

JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Panosian et al.
Application No. 10/838,601
Filed: May 4, 2004
Attorney Docket No. P-0402PN

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 9, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2004.

The petition states that the application became abandoned on February 9, 2005. However, since no extensions of time were obtained in response to the Notice of Omitted Items, the application became abandoned on September 9, 2004. The statement that the entire delay was unintentional from the due date for the reply until the filing of the instant petition is being construed to include the time period between September 9, 2004, and April 4, 2005. If this is **not** a correct interpretation of the statement contained in the instant petition, petitioner must notify the Office.

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 the application has been revived so that OIPE can continue to process the application.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

COPY MAILED

JUL 22 2008

In re Application of :
Alexander GELFENBAIN :
Application No. 10/838,618 : DECISION ON PETITION
Filed: May 3, 2004 : TO WITHDRAW
Attorney Docket No. 20910/0206209-US0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John W. Branch on behalf of all attorneys/agents associated with Customer No. 62663.

All attorneys/agents associated with Customer No. 62663 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 assignee at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SUN MICROSYSTEMS, INC.
4120 NETWORK CIRCLE
SANTA CLARA, CA 95054

OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/28/06

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/838623 Patent No.: 6966175

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

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: _____

T. KIM — SPE

3746 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner LLP
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

COPY MAILED

NOV 29 2007

OFFICE OF PETITIONS

In re Application of

Piotr Cofta et al.
Application No. 10/838,642
Filed: May 3, 2004
Attorney Docket No. 088245-1134

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 10, 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 G. Peter Albert, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed October 11, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Piotr Cofta**
Sarkiniementie
15C60 00210
Helsinki
Finland

cc: **Connolly Bove Lodge & Hutz LLP**
1990 M Street NW, Suite 800
Washington DC 20036-3425

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
10/838,642	05/03/2004	Piotr Cofta	088245-1134

CONFIRMATION NO. 3925

POWER OF ATTORNEY NOTICE

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Date Mailed: 11/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 062505

COOLEY GODWARD, LLP
3000 EL Camino Real
5 Palo Alto Square
Palo Alto CA 94306

NOV 23 2005

In re Application of:	:	
Macgregor *et al.*	:	
Serial No.: 10/838,644	:	DECISION ON REQUEST TO WITHDRAW
Filed: May 03, 2004	:	FROM RECORD
Attorney Docket No.: **NANI-008/01US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 09, 2005.

The request is **DISMISSED** as moot.

The review of the application file record reveals a proper revocation and power of attorney to the attorneys associated with Customer Number 22827 was filed May 11, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will be directed to the below-listed address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Dority & Manning
Attorneys At Law, P.A.
55 Beattie Place, Suite 1600
Greenville, SC 29601

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/12/07

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/838651 Patent No.: 7040836B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE

3671
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

COPY MAILED

APR 27 2007

OFFICE OF PETITIONS

In re Application of
Bordoloi et al.
Application No. 10/838,654
Filed: May 3, 2004
Attorney Dkt. No.: U 015176-2

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 15, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on August 18, 2006. The final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on November 19, 2006. A Notice of Abandonment was mailed on March 2, 2007.

In the present petition, petitioner contends a timely reply in the form of a Notice of Appeal and three month extension of time was submitted on February 20, 2007. Petitioner states the reply period was extended because February 19, 2007 was a federal holiday. In support of petitioner's contention, petitioner has provided a copy of the Office stamped post card receipt containing a receipt date of February 22, 2007.

A review of the record shows that a Notice of Appeal and three month request for extension of time was received on February 22, 2007. Further review shows that the response contained a certificate of mailing date of February 20, 2007 pursuant to 37

CFR 1.8.[1]

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application is being referred to Art Unit 1657 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]When the last day for taking any action or paying any fee in the Office falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day. See MPEP 505.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes NJ 07417-1880

COPY MAILED

SEP 12 2008

In re Patent No. 7,331,934

Issue Date: February 19, 2008

Application No. 10/838,687

Filed: May 4, 2004

Attorney Docket No. P-6142/2

ON PETITION

This is a decision on the petition filed March 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Deposit account 02-1666 will be charged $100.00 for the certificate of correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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

JOHN J. ELNITSKI, JR.
225 A SNOWBIRD LANE
BELLEFONTE, PA 16823

COPY MAILED

AUG 1 0 2005

OFFICE OF PETITIONS

In re Patent of :
Sei-Joo Jang :
Application No. 10/838,699 : DECISION
Filed: May 4, 2004 : ON PETITION
Attorney Docket Number: P04-13 :

This is a decision on the Petition filed November 23, 2004, requesting the application be accorded a filing date of May 4, 2004, including drawing Figure 183 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed on May 4, 2004. On October 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), informing Applicant, *inter alia*, that a filing date had been accorded the application; however, Figure 183 described in the specification appeared to have been omitted from the application.

Applicant files the instant petition and asserts that drawing Figure 183 was included among 89 drawing pages filed with the application on May 4, 2004. In support of this assertion, Applicant provides a copy of his Express Mail Certificate that itemizes the application papers putatively filed on May 4, 2004. The Express Mail Certificate lacks an Official date stamp from this Office.

Analysis

The best evidence of what was filed on May 4, 2004, is applicant's postcard receipt. In this case, Applicant's [Express Mail Certificate] fails to demonstrate that Figure 183 described in the specification was filed with the application.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503. (Emphasis supplied).

In this instance, Applicant's Express Mail Certificate does not contain an Official Date Stamp from this Office and thus fails to demonstrate that drawing Figure 183 was present on filing.

Conclusion

If drawing Figure 183 was not present on May 4, 2004, then Figure 183 cannot be considered a part of the original disclosure of the application. Applicant has failed to satisfactorily demonstrate that drawing Figure 183 was present on May 4, 2004. Therefore, the application cannot be accorded the May 4, 2004 filing date with Figure 183 as part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

The application is being referred to the Office of Initial Patent Examination ("OIPE") for further processing with a filing date of May 4, 2004, using the sheets of drawing Figures filed on that date.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN J. ELNITSKI, JR.
225 A SNOWBIRD LANE
BELLEFONTE, PA 16823

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Patent of :
Sei-Joo Jang :
Application No. 10/838,699 : DECISION
Filed: May 4, 2004 : ON PETITION
Attorney Docket Number: P04-13 :

This is a decision on the Request for Reconsideration of Petition, filed September 7, 2005, requesting the application be accorded a filing date of May 4, 2004, including drawing Figure 183 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **GRANTED.**

The application was filed on May 4, 2004. On October 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), informing Applicant, *inter alia*, that a filing date had been accorded the application; however, Figure 183 described in the specification appeared to have been omitted from the application.

Applicant filed a petition on November 23, 2004 that was dismissed in a Decision mailed August 10, 2005, for failing to meet the requirements of a grantable petition under 37 CFR 1.182.

Applicant files the instant petition and asserts that drawing Figure 183 was included among 89 drawing pages filed with the application on May 4, 2004. In support of this assertion, Applicant provides a copy of his return-receipt postcard acknowledging receipt of, *inter alia*, 89 sheets of drawings in the above-identified application by this Office on June 4, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 89

sheet of drawings in the above-identified application by this Office on June 4, 2004.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of Figure 183 filed with the petition on November 23, 20045, will be used for examination purposes.

A refund of the petition fee has been scheduled via treasury check, as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 4, 2004, and an indication that 89 sheets of drawings were present on filing, including Figure 183, using the copy of Figure 183 filed on November 23, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN J. ELNITSKI, JR.
225 A SNOWBIRD LANE
BELLEFONTE, PA 16823

COPY MAILED

AUG 10 2005

OFFICE OF PETITIONS

In re Patent of :
Sei-Joo Jang :
Application No. 10/838,699 : DECISION
Filed: May 4, 2004 : ON PETITION
Attorney Docket Number: P04-13 :

This is a decision on the Petition filed November 23, 2004, requesting the application be accorded a filing date of May 4, 2004, including drawing Figure 183 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed on May 4, 2004. On October 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), informing Applicant, *inter alia*, that a filing date had been accorded the application; however, Figure 183 described in the specification appeared to have been omitted from the application.

Applicant files the instant petition and asserts that drawing Figure 183 was included among 89 drawing pages filed with the application on May 4, 2004. In support of this assertion, Applicant provides a copy of his Express Mail Certificate that itemizes the application papers putatively filed on May 4, 2004. The Express Mail Certificate lacks an Official date stamp from this Office.

Analysis

The best evidence of what was filed on May 4, 2004, is applicant's postcard receipt. In this case, Applicant's [Express Mail Certificate] fails to demonstrate that Figure 183 described in the specification was filed with the application.

Copied from 10848022 on 03/28/2006

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503. (Emphasis supplied).

In this instance, Applicant's Express Mail Certificate does not contain an Official Date Stamp from this Office and thus fails to demonstrate that drawing Figure 183 was present on filing.

Conclusion

If drawing Figure 183 was not present on May 4, 2004, then Figure 183 cannot be considered a part of the original disclosure of the application. Applicant has failed to satisfactorily demonstrate that drawing Figure 183 was present on May 4, 2004. Therefore, the application cannot be accorded the May 4, 2004 filing date with Figure 183 as part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

The application is being referred to the Office of Initial Patent Examination ("OIPE") for further processing with a filing date of May 4, 2004, using the sheets of drawing Figures filed on that date.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Copied from 10848022 on 03/28/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN E. MC VEIGH
RHODIA INC.
CN 7500
8 CEDAR BROOK DRIVE
CRANBURY NJ 08512

COPY MAILED

SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Sharma et al. :
Application No. 10/838,714 : DECISION ON PETITION
Filed: May 4, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. RD 03008 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed July 21, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the declaration filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1410.00 petition fee submitted is unnecessary. The petition fee was not submitted and is not required.

Any questions concerning this decision on petition may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed applications.

Anthony Knight
Supervisor
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

COPY MAILED

JUL 23 2004

OFFICE OF PETITIONS

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

In re Application of	
Christie, et al.	DECISION REFUSING STATUS
Application No. 10/838,723	UNDER 37 CFR 1.47(a)
Filed: May 4, 2004	
Atty. Dkt. No.: 1128d	
For: SYSTEM AND METHOD FOR INTERFACING A LOCAL COMMUNICATION DEVICE	

This decision is in response to the petition under 37 CFR 1.47(a), filed May 4, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 4, 2004 without a fully executed oath or declaration and naming Joseph M. Christie as a joint inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing legal representative of the deceased 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 (or legal representative of deceased inventor).

The instant petition lacks items (1) and (2) set forth above.

As to item (1), there is no indication that attempt has been made to present the applications papers (specification, including claims, drawings, and oath or declaration) to the non-signing legal representative of the deceased inventor for the instant application. The petition details attempts to procure the signature of the legal representative of the deceased inventor in U.S. App. No. 08/754,354. While U.S. App. No. 08/754,354 is obviously related to the instant application, there is no indication in the PALM database that Rule 47 status was ever accorded U.S. App. No. 08/754,354. Thus, petitioner cannot rely upon the provisions of 37 CFR 1.47(c) absent proof that Rule 47 status was accorded the prior application. If in fact Rule 47 status was accorded the prior application, petitioner should upon renewed petition submit a copy of the decision granting Rule 47 status. If, however, Rule 47 status was not granted in the prior related application, petitioner is required to comply with the requirements of 37 CFR 1.47(a) and present a copy of the application papers to the legal representation of the deceased inventor. Any renewed petition must be accompanied by proof that the legal representative of the deceased inventor refused to sign the oath or declaration for the instant application after having been presented with the application papers for the instant application.

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is unacceptable as it is not fully executed. Absent Rule 47 status in the prior related application, a newly executed oath or declaration is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306

By hand/courier service: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window
Crystal Plaza 2, Lobby ,Room 1B03
Arlington, VA 22202

Telephone inquiries concerning the content of this decision may be directed to the undersigned at 703-305-0310

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

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

COPY MAILED

SEP 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Christie, et al.	:	
Application No.: 10/838,723	:	DECISION ON PETITION
Filed: May 4, 2004	:	
Docket No.: 1128d	:	
For: SYSTEM AND METHOD FOR INTERFACING A LOCAL COMMUNICATION DEVICE	:	

This decision is in response to the renewed petition pursuant to 37 CFR 1.47(a) filed August 23, 2004.

The petition is hereby **GRANTED**.

The instant application is a continuation of U.S. App. No. 09/420,914 filed October 20, 1999. In accordance with 37 CFR 1.63(d), petitioners have submitted a copy of the executed declaration filed in the prior application. Petitioners have also provided a copy of a decision on petition according Rule 47 status to the prior application. A copy of the decision according Rule 47 status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

Petitioners have submitted $130.00 in connection with this renewed petition. No additional petition fee, however, is due. Petitioners may request a refund of the petition fee submitted August 23, 2004 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being returned to the Office Publications for processing into a patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

Eddie E. Scott
Assistant Laboratory Counsel
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

COPY MAILED

MAR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Slaughter et al.	:	
Application No.: 10/838762	:	DECISION ON
Filing or 371(c) Date: 05/03/2004	:	PETITION
Attorney Docket Number:	:	
IL-11319	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed September 25, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned December 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions