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FROM DIRECTORS OFFICE
NOV 17 2004
TECHNOLOGY CENTER 3600

Timothy L. Hughes, Esq.
Gray Robinson, P.A.
Suite 1400
301 East Pine Street
Orlando, FL 32801

In re Application of:
James T. Pitcock
Serial No. 10/859,197
Filed: June 3, 2004
For: MOBILE ROD HOLDER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed June 3, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes an affidavit from the applicant's doctor, Dr. Gerald Pierone, Jr., dated May 14, 2004 attesting to the fact that the state of health of James T. Pitcock is such that he might not be available to assist in the prosecution of his patent application if it were to run its normal course. It is therefore clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to his health if said prosecution were to run it's normal course.

For the above stated reasons, 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
(703) 308-3868

SNM/rwg: 11/10/04

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LEON R TURKEVICH
2000 M STREET NW
7TH FLOOR
WASHINGTON, DC 200363307

Mail Date: 06/18/2010

Applicant	: Bryan C. Turner	: DECISION ON REQUEST FOR
Patent Number	: 7634566	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/859,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PAUL SMITH INTELLECTUAL PROPERTY LAW
330-1508 WEST BROADWAY
VANCOUVER BC V6JIW8 CA CANADA

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of	:
Jose Antonio Rodriguez et al.	:
Application No. 10/859,227	: DECISION ON PETITION
Filed: June 3, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 191P1	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 24, 2006, 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 amendment March 2, 2006.

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 th 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 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.

37 CFR §1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1731 for appropriate action on the amendment submitted March 2, 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.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	. ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/859,227	06/03/2004	1731	770	191P1	10	3	3

CONFIRMATION NO. 7417
CORRECTED FILING RECEIPT
OC000000020341347
OC000000020341347

24320
Paul Smith Intellectual Property Law
330-1508 West Broadway
Vancouver, BC V6JIW8
CANADA

Date Mailed: 09/07/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jose Antonio Rodriguez, Durango, MEXICO;
Kelly Anthony O'Flynn, Kelowna, CANADA;

Assignment For Published Patent Application

Fortune Forest & Lignin S.A. de C.V., Kelowna, CANADA

Power of Attorney: The patent practitioners associated with Customer Number **24320**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/474,961 06/03/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/859,227

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel catalytic reactor process for the production of commercial grade pulp, native lignin & unicellular protein

Preliminary Class

162

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Fumio Tazawa et al	:	
Application No. 10/859,241	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 00684.003642	:	

This is a decision on the petition, filed February 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2852 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/859241	06/03/04	TAZAWA, FUMIO	00684.003642.

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

EXAMINER	
GLEITZ, RYAN	
ART UNIT	PAPER NUMBER
2852	

DATE MAILED: 12/4/08

NOTICE OF RESCINDED ABANDONMENT

☒ **In response to your communication filed** 9/1/06

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Kenneth Scott
Manager, Publications Division
Office of Patent Publication
571-272-4200

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GREENLEE WINNER AND SULLIVAN, P.C.
5370 MANHATTAN CIRCLE, SUITE 201
BOULDER, CO 80303

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AUG 2 6 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Harvey K. Hall :
Application No. 10/859,254 :
Filed: June 1, 2004 :
Attorney Docket No. 14-04

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

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

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ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA PA 19103-3222

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Anthony Bonnet et al. :
Application No. 10/859,300 : ON PETITION
Deposited: June 2, 2004 :
Attorney Docket No. FR-AM1956 NP :

This is a decision on the petition filed May 23, 2005, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 3, 2004 for failure to timely respond to the Notice to File Missing Parts, mailed August 2, 2004. No requests for extensions were filed. Accordingly, a Notice of Abandonment was mailed April 21, 2005.

Petitioner argues that the Notice mailed August 2, 2004 was not received and points out that the address used for mailing the Notice was incorrect.

A review of the file reveals that the petitioner is correct and it is noted that an error on the part of the USPTO caused the office action mailed to not be received by the applicant's representative. The correct address is "2000 Market Street" however, the address on the Notice was "200 Market Street". Thus, petitioner's delay in responding to the Notice to File Missing Parts was unavoidable under the standard set out at 37 CFR 1.137(a).

---

[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©)).

Please note however that the application serial no. placed on the petition is incorrect. Please be careful to properly indicate the application serial no. on correspondence when communicating with the USPTO in the future, to minimize any potential for confusion that may cause a delay in an action regarding the above identified patent application.

The oath or declaration and surcharge for its late filing, as required by the Notice to File Missing Parts mailed August 2, 2004 is acknowledged. All other requirements having been met, this matter will be referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS TX 75252

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
David Vardi	:	
Application No. 10/859,302	:	DECISION ON PETITION
Filed: June 1, 2004	:	
Attorney Docket No. AUS920050922US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 21, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 22, 2009. The Notice of Abandonment was mailed November 13, 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 $,1620, 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 3621 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

OIPE JC81
JUN 13 2005
PATENT & TRADEMARK OFFICE

$ JFW

8001-1218
PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

DECISION is moot
JGD

TAKEWAKI et al. Conf. 7602

Application No. 10/859,319 Group 2811

Filed June 3, 2004

SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME

PETITION TO MAKE PATENT APPLICATION SPECIAL

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

June 13, 2005

Sir:

It is respectfully requested that the examination of the above-identified application be accelerated under the provisions of MPEP 708.02 VIII.:

The grounds for the petition are as follows:

All the claims are believed to be directed to a single invention. If the Examiner believes that restriction is proper, then Applicants would elect claims 1-6, drawn to a semiconductor device, without traverse.

A pre-examination search was made, according to the U.S. classification system, in class 257 subclass 758.

The references found that were considered to be the most pertinent are as follows:

U.S. Patent 6,812,127, November 2, 2004, OSHIMA et al.

U.S. Patent 6,727,589, April 27, 2004, GRECO et al.

06/15/2005 HALI11 00000029 10859319
01 FC:1464 130.00 OP

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CLIFFORD G. FRAYNE
Suite 7A
136 Drum Point Road
Brick, NJ 08723

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OFFICE OF PETITIONS

In re Application of :
Koumarianos :
Application No. 10/859,323 : ON PETITION
Filing Date: June 3, 2004 :
Atty. Dkt. No.: 752-001A :

This is a decision on the "PETITION PURSUANT TO 37 C.F.R. 1.182 TO ACCEPT OMITTED DRAWING," filed August 26, 2004.

The application was deposited June 3, 2004. A Notice of Omitted(s) in a Nonprovisional Application ("Notice") was mailed July 29, 2004. The Notice indicated that the application had been accorded a filing date but that Figure 5 as described in the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner does not satisfy (1) or (2) set forth above as the petition does not assert that Fig. 5 was actually deposited in the PTO on June 3, 2004 nor does the petition request a later filing date.

Accordingly, the petition is hereby **DISMISSED**.

Petitioner acknowledges that Fig. 5 was omitted from the application as filed and seeks to add Fig. 5 to the application on the basis that Fig. 5 does not include new matter. With a proper

incorporation by reference statement, petitioner may amend the application to include the omitted figure. However, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without a petition so long as the pages contain no new matter. *See*, MPEP 608.02(a).

The application transmittal letter for the instant application identified this application as a continuation of prior application No. 10/378,144 and specifically incorporated by reference the disclosure of the prior application.

An applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter…. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Thus, in view of the incorporation by reference of the prior application, Fig. 5 is not new matter if it was part of the disclosure of the prior application.

Petitioner is advised to <u>promptly</u> submit a preliminary amendment along with a copy of the figure in question prior to issuance of the first Office action on the merits amending the specification to include Fig. 5.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 3, 2004 using the application papers that were present on that date and <u>without</u> entry of Fig. 5.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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12400 Wilshire Boulevard
Los Angeles, CA 90025

Mail Date: 04/21/2010

Applicant	: Justin K. Brask	: DECISION ON REQUEST FOR
Patent Number	: 7579280	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/859,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **534** 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 : 09/25/08

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10859332 Patent No.: 7411767 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE _____ **Art Unit** 2836

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United States Patent and Trademark Office
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BOSTON MA 02109

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Zamore et al.	:	
Application No. 10/859,337	:	ON APPLICATION
Filed: June 2, 2004	:	FOR
Atty Docket No. UMY-050RCE2	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING RECONSIDERATION UNDER 37 C.F.R. 1.705(b) filed June 13, 2008.[1]

Applicants assert that the initial determination of patent term adjustment omits the period of adjustment under Rule 703(b).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is 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 § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered

[1] As the issue fee was paid on June 17, 2008, this application was timely filed.

pursuant to § 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.

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,459,547	:	
Zamore et al.	:	DECISION DISMISSING
Application No. 10/859,337	:	REQUEST FOR
Issue Date: December 2, 2008	:	RECONSIDERATION OF
Filed: June 2, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
UMY-050RCE2	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed February 3, 2009 (Express Mail date February 2, 2009). Patentee requests that the determination of patent term adjustment be corrected from one hundred thirty-one (131) days to at least three hundred fifteen (315) 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 131 days.

BACKGROUND

On December 2, 2008, the application matured into U.S. Patent No. 7,459,547, with a revised patent term adjustment of 131 days. The Office determined that 268 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 185 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. An additional 46 days of Office delay were entered pursuant to 37 CFR 1.704(a)(4) for issuance of the patent on December 2, 2008, four (4) months and

46 days after the payment of the issue fee on June 17, 2008. As such, 83 (268 - 185 overlap) additional days of patent term adjustment were entered at issuance under the three-year pendency provision for a total of 314 (185 + 46 + 83) days of Office delay. Given the applicant delay of 183 days, the patent issued with a revised patent term adjustment of 131 (314 - 183) days.

On February 3, 2009 (Express Mail date February 2, 2009), patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 315 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur *on the same calendar day or days*" (emphasis in original).

At the outset, it is noted that patentees have calculated a period of 267 days of PTO delay under §154(b)(1)(B) and §1.702(b). However, as of the filing of the RCE on February 25, 2008, the application was pending three years and 268 days. Accordingly, the non-overlapping period of three year delay asserted by patentee is 268 days, not 267 days. Patentees' argument will be articulated accordingly.

Accordingly, patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 499 (231 + 268) days as these periods do not occur on the same day. Further, given the applicant delay of 183 days, patentees assert entitlement to 316 (499 - 183) days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of

> any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) 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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35

U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 2, 2004, and ending on the date of filing of a request for continued examination (RCE), February 25, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 185 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(4), 46 days of Office delay were entered, subsequent to the filing of the request for continued examination, for the issuance of the patent four months and 46 days after the payment of the issue fee. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 268 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

268 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 185 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both periods is neither permitted nor warranted. 314 days is the actual number of days at issuance the patent was delayed, including the 46 days of Office delay pursuant to 37 CFR 1.702(a)(4).

Accordingly, at issuance, the Office properly entered 83 days of patent term adjustment, for a total Office delay of 268 days as of the filing of the RCE.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 131 days.

The Office acknowledges submission of the $200.00 fee filed with the original application under 37 CFR 1.705(b). No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Hiroaki IGUCHI
Application No. 10/859,341
Filed: June 3, 2004
For: METHOD FOR OPERATING STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on August 26, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 26, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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DENVER CO 80264

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith T. Carron et al.	:	
Application No. 10/859,372	:	
Filed: June 1, 2004	:	DECISION ON PETITION
Attorney Docket No. 359-002-USP	:	UNDER 37 C.F.R. § 1.181(A)
Title: RAMAN SPECTROMETER	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on November 13, 2007.

BACKGROUND

The above-identified application became abandoned for failure to submit the publication and issue fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 5, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on October 6, 2007. A Notice of Abandonment was mailed on October 29, 2007.

With the present petition, Petitioner has alleged that the mailing was not received, and has included a copy of the docket report.

1 See MPEP § 710.02(e).

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing was not received, that he has searched the file jacket and the docket record, and he has included a copy of the latter.

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 the mailing was not received.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due of July 5, 2007, and will set a new period for response.

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

Paul Shanoski
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence P. Bolaski	:	
Application No. 10/859,388	:	
Deposited: June 1, 2004	:	ON PETITION
Attorney Docket Number:	:	
P-92834-07(UT)	:	

This is in response to the Petition to the Director to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed October 20, 2005. The petition is properly treated under 37 CFR 1.53.

The petition is dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Application papers in the above-identified application were deposited on June 1, 2004. A review of the Transmittal Papers filed with the application reveal that the application papers failed to include 8 pages of specification and 4 sheets of drawings that were identified in the Transmittal Papers as having been filed with the application papers. Accordingly, this Office mailed a Notice of Incomplete Nonprovisional Application (Notice) on July 27, 2004, informing applicant that the specification was missing, and the specification did not include at least one claim.

Office records further indicate that on November 26, 2004, this Office received a Change of Correspondence Address only.

Thereafter, on August 19, 2005, this Office mailed a Notice of Termination of Proceedings Under 37 CFR 1.53(e).

The instant petition

Applicant files the instant petition and asserts that a reply to the Notice was timely filed on August 4, 2004, using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8. Applicant also attest, on a personal knowledge basis, to the filing of a utility patent application on June 1, 2004. Applicant asserts that his return-receipt postcard verifies the filing of the patent application. Applicant provides that on August 23, 2005, he again filed via facsimile, and using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8, a copy of the patent application in response to the Notice of Termination of Proceedings.

Facsimile Transmission of Application papers

Initially it is noted that, for the purpose of obtaining an application filing date, papers may NOT be sent to the office via facsimile. See 37 CFR 1.8(a)(2)(i)(a).

Here, Applicant was informed that a filing date had NOT been accorded the application. Applicant was advised that to contest the assertion by this Office - that the application had been deposited without a specification or claim(s) - Applicant should file a petition. Instead, Applicant chose to file, via facsimile, copies of the application papers putatively filed.

A review of the petition papers filed reveal that the certificate of Facsimile indicates that the papers were sent via facsimile in October of 2005. There are no papers accompanying this petition that contain a Certificate of Facsimile dated August 4, 2004, or August 23, 2005. As such, Applicant has failed to demonstrate that a response to the Notice was timely filed. Further to this, a review of the facsimile transmission reveals that the facsimile was not transmitted to the Centralized Facsimile Number for Official Patent Application Related Correspondence: 571-273-8300. Accord MPEP 502.01.

The return-receipt postcard

Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it contains a date-stamp from this Office acknowledging receipt of a Patent Application Cover Sheet; Declaration w/Power of Attorney; Utility Patent Application; Small Entity Statement; Assignment Document w/Recordation Fee; IDS (PTO Form 1449), and Certificate of Express Mail.

Applicant is advised that

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

MPEP 503

Moreover, the Application Transmittal papers filed on June 1, 2004 contain a USPTO stamp annotating that the Office did not receive eight (8) pages of specification and four (4) page(s) of drawings.

Applicant's attestation based upon personal knowledge

The USPTO file is the official record of the papers actually received or filed. Application's recollection of events that occurred more than one year prior to the filing of the application papers is not more persuasive than Office records.

Conclusion

Applicant has failed to demonstrate that the application papers as-filed included a specification or drawings. Applicant has also failed to timely reply to the Notice because Applicant filed application papers for the purposes of obtaining a filing date, via facsimile.

Accordingly, the petition is dismissed.

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence P. Bolaski	:	
Application No. 10/859,388	:	ON PETITION
Filed: December 28, 2005	:	
Title of Invention:	:	
DIPSTICK-SHIELDING TUBE AND	:	
METHOD OF USE	:	

This Decision is in response to a Renewed petition Under 37 CFR § 1.53, filed July 24, 2006, requesting that the application be accorded a filing date of June 1, 2004.

The petition is **granted**.

Background

Application papers in the above-identified application were deposited on June 1, 2004. A review of the Transmittal Papers filed with the application reveal that the application papers failed to include 8 pages of specification and 4 sheets of drawings that were identified in the transmittal papers as having been filed with the application papers. Accordingly,

this Office mailed a Notice of incomplete Nonprovisional Application (Notice) on July 27, 2004, informing Applicant that the specification was missing, and that the specification did not include at least one claim.

Office records further indicate that on November 26, 2004, this Office received a Change of correspondence Address only.

Thereafter, on August 19, 2005, this Office mailed a Notice of Termination of Proceedings Under 37 CFR 1.53(e).

The October 20, 2005 petition

Applicant filed a petition on October 20, 2005, wherein Applicant averred that a timely reply to the Notice was filed on August 4, 2004, using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8. Applicant also attested, on a personal knowledge basis, to the filing of a utility patent application on June 1, 2004. Applicant asserted that his return-receipt postcard verified the filing of the patent application. Applicant provided that on August 23, 2005, he again filed via facsimile, and using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8, a copy of the patent application in response to the Notice of Termination Proceedings.

The May 12, 2006 Decision dismissing the petition

The October 20, 2005 petition was dismissed in a decision mailed May 12, 2006. The Decision dismissing the petition initially noted that, for purposes of obtaining a filing date, papers may NOT be sent to the Office via facsimile. See 37 CFR 1.8(a)(2)(i)(a).

The Decision also noted that Applicant had not filed any papers with the October 20, 2005 petition that contained a Certificate of Transmission dated August 4, 2004 or August 23, 2005. Moreover, a review of the file revealed that the facsimile transmission was not transmitted to the Central Fax Number: 571-273-8300.

Regarding Applicant's return-receipt postcard, the Decision noted that the return-receipt postcard contained a date-stamp from this Office acknowledging receipt of a Patent Application Cover Sheet; Declaration w/Power of Attorney; Utility Patent Application; Small Entity Statement; Assignment Document w/Recordation Fee; IDS (PTO Form 1440), and Certificate of Express Mail.

The Decision advised Applicant that

> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete

> application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

Applicant was also informed that a review of the Application Transmittal papers filed on June 1, 2004 contained a USPTO stamp annotating that the Office did not receive eight (8) pages of specification and four (4) page(s) of drawings.

Finally, regarding Applicant's assertions based upon personal knowledge, Applicant was advised that the USPTO file is the official record of the papers actually received or filed. Applicant's recollection of events that had occurred more than one year prior to the filing of the application papers was not more persuasive than Office records.

The Decision concluded that Applicant had failed to demonstrate that the application papers as-filed included a specification or drawings. Applicant had also failed to timely reply to the Notice because Applicant had filed application papers for the purpose of obtaining a filing date via facsimile.

The instant renewed petition

Applicant files the instant renewed petition and asserts that the application was complete on June 1, 2004; that Applicant was directed by this office to re-submit the application papers via facsimile[1]; that application papers that included a Certificate of facsimile dated August 4, 2004 were clearly referenced as an attachment in the October 12, 2006 petition; that the Notice of Termination of Proceedings was premature because of Applicant's

[1] 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. 37 CFR 1.2.

timely reply to the Notice of Incomplete Nonprovisional Application; that the return-receipt postcard is probative evidence that the application was complete on June 1, 2004, because the postcard contained no indication thereon that any of the items listed were missing, and that the Office now, for the first time in the petition, contends that the entire application is missing (specification and drawings), and that the Declaration based upon personal knowledge and under the penalty of perjury should be accorded substantial evidentiary weight[2].

Applicable Law

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.

MPEP 503

Analysis

A review of the postcard reveals that the items listed thereon included:

Patent Application Coversheet
Utility patent Application
Declaration/Power of Attorney
Small Entity Statement
Assignment Documents and recordation fee
Filing fees $425.00
IDS
Certificate of Express Mail No ER367354581US

[2] In response to objections to the use of affidavits and/or declarations to establish a filing date, the Office indicated that such affidavits or declarations are considered to explain activities that are supported by exhibits (*i.e.*, corroborate evidence). See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2702-03, 1027 *Off. Gaz. Pat. Office* at 27-28. Thus, the Office appropriately requires the submission of corroborative documentary evidence to establish an application filing date.

A review of the application file reveals that the file contains:

Patent Application Coversheet

Declaration/Power of Attorney
Small Entity Statement
Assignment Documents and recordation fee
Filing fees $425.00
IDS
Certificate of Express Mail No ER367354581US

The stamped postcard receipt listed a "Utility Patent Application"; however, Office records reveal that there is nothing in the record to correspond to a "Utility Patent Application" that was listed on the postcard. Also, as Applicant notes, the postcard was not annotated to indicate that any item was not received. As such, the postcard evidence is sufficient evidence of receipt of a utility patent application[3]. Accordingly, the petition to withdraw the Notice of Incomplete Nonprovisional Application and is granted.

Facsimile transmission of application papers

Because the application papers sent via facsimile on August 4, 2004, were not for the purpose of obtaining a filing date, the papers are acceptable. *Accord*, 37 CFR §§ 1.6, 1.8.

Applicant is also advised that, in response to a Notice of Incomplete Nonprovisional Application, Applicant may:

(A) file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), asserting that (1) the missing specification was submitted, or (2) the application papers as deposited contain an adequate written description under 35 U.S.C. 112. The petition under 37 CFR 1.53(e) must be accompanied by sufficient evidence (37 CFR 1.181(b)) to establish applicant's entitlement to the requested filing date (e.g., a date-stamped postcard receipt (MPEP § 503) to establish prior receipt in the USPTO of the missing specification);

[3] Applicant is reminded that "the postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard."

> (B) submit the omitted specification, including at least one claim in a nonprovisional application, accompanied by an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to the specification being submitted <u>and accept the date of such submission as the application filing date</u>; or (C) submit an amendment under 37 CFR 1.57(a). If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the specification was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted specification pursuant to 37 CFR 1.57(a). The amendment must be accompanied by a petition under 37 CFR 1.57(a)(3) along with the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. The amendment should be identified as an amendment pursuant to 37 CFR 1.57(a) and must comply with the requirements of 37 CFR 1.57(a) and 37 CFR 1.121. The 2-month period is not extendable under 37 CFR 1.136. (Emphasis supplied).

MPEP 601.01(d)

<u>Conclusion</u>

The Notice of Incomplete Nonprovisional Application and the Notice of Termination of Proceedings were mailed in error and are hereby withdrawn.

The copy of 5 pages of Specification, 2 pages of Claims, 1 page Abstract, and 4 sheets of drawings, filed with the petition on October 20, 2005, will be used for examination purposes.

A review of the Application and petition papers reveals that no authorization to refund the petition fee has been filed. Petitioner should request a refund of the petition fee by writing to the Finance Office, Refund Section, and include a copy of this Decision.

The application will be returned to the Office of Initial Patent Examination for withdrawal of the Notices, and for further processing with a filing date of June 1, 2004, and an indication that 5 pages of specification, 2 pages of claims, 1 page Abstract, and 4 sheets of drawings were included among the application papers filed on June 1, 2004, using 5 pages of specification, 2 pages of claims, 1 page Abstract, and 4 sheets of drawings filed with the petition on October 20, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUTOMATIC DRIVE
P.O. BOX 440
BELLOWS FALLS, VT 05101-0440

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence P. Bolaski	:	
Application No. 10/859,388	:	ON PETITION
Filed: December 28, 2005	:	
Title of Invention:	:	
DIPSTICK-SHIELDING TUBE AND	:	
METHOD OF USE	:	

This Decision is in response to a Renewed petition Under 37 CFR § 1.53, filed July 24, 2006, requesting that the application be accorded a filing date of June 1, 2004.

The petition is **granted**.

Background

Application papers in the above-identified application were deposited on June 1, 2004. A review of the Transmittal Papers filed with the application reveal that the application papers failed to include 8 pages of specification and 4 sheets of drawings that were identified in the transmittal papers as having been filed with the application papers. Accordingly,

this Office mailed a Notice of incomplete Nonprovisional Application (Notice) on July 27, 2004, informing Applicant that the specification was missing, and that the specification did not include at least one claim.

Office records further indicate that on November 26, 2004, this Office received a Change of correspondence Address only.

Thereafter, on August 19, 2005, this Office mailed a Notice of Termination of Proceedings Under 37 CFR 1.53(e).

The October 20, 2005 petition

Applicant filed a petition on October 20, 2005, wherein Applicant averred that a timely reply to the Notice was filed on August 4, 2004, using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8. Applicant also attested, on a personal knowledge basis, to the filing of a utility patent application on June 1, 2004. Applicant asserted that his return-receipt postcard verified the filing of the patent application. Applicant provided that on August 23, 2005, he again filed via facsimile, and using the Certificate of Facsimile Transmission procedures under 37 CFR 1.8, a copy of the patent application in response to the Notice of Termination Proceedings.

The May 12, 2006 Decision dismissing the petition

The October 20, 2005 petition was dismissed in a decision mailed May 12, 2006. The Decision dismissing the petition initially noted that, for purposes of obtaining a filing date, papers may NOT be sent to the Office via facsimile. See 37 CFR 1.8(a)(2)(i)(a).

The Decision also noted that Applicant had not filed any papers with the October 20, 2005 petition that contained a Certificate of Transmission dated August 4, 2004 or August 23, 2005. Moreover, a review of the file revealed that the facsimile transmission was not transmitted to the Central Fax Number: 571-273-8300.

Regarding Applicant's return-receipt postcard, the Decision noted that the return-receipt postcard contained a date-stamp from this Office acknowledging receipt of a Patent Application Cover Sheet; Declaration w/Power of Attorney; Utility Patent Application; Small Entity Statement; Assignment Document w/Recordation Fee; IDS (PTO Form 1440), and Certificate of Express Mail.

The Decision advised Applicant that

> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete

> application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

Applicant was also informed that a review of the Application Transmittal papers filed on June 1, 2004 contained a USPTO stamp annotating that the Office did not receive eight (8) pages of specification and four (4) page(s) of drawings.

Finally, regarding Applicant's assertions based upon personal knowledge, Applicant was advised that the USPTO file is the official record of the papers actually received or filed. Applicant's recollection of events that had occurred more than one year prior to the filing of the application papers was not more persuasive than Office records.

The Decision concluded that Applicant had failed to demonstrate that the application papers as-filed included a specification or drawings. Applicant had also failed to timely reply to the Notice because Applicant had filed application papers for the purpose of obtaining a filing date via facsimile.

The instant renewed petition

Applicant files the instant renewed petition and asserts that the application was complete on June 1, 2004; that Applicant was directed by this office to re-submit the application papers via facsimile[1]; that application papers that included a Certificate of facsimile dated August 4, 2004 were clearly referenced as an attachment in the October 12, 2006 petition; that the Notice of Termination of Proceedings was premature because of Applicant's

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timely reply to the Notice of Incomplete Nonprovisional Application; that the return-receipt postcard is probative evidence that the application was complete on June 1, 2004, because the postcard contained no indication thereon that any of the items listed were missing, and that the Office now, for the first time in the petition, contends that the entire application is missing (specification and drawings), and that the Declaration based upon personal knowledge and under the penalty of perjury should be accorded substantial evidentiary weight[2].

Applicable Law

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MPEP 503

Analysis

A review of the postcard reveals that the items listed thereon included:

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[2] In response to objections to the use of affidavits and/or declarations to establish a filing date, the Office indicated that such affidavits or declarations are considered to explain activities that are supported by exhibits (*i.e.*, corroborate evidence). See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2702-03, 1027 *Off. Gaz. Pat. Office* at 27-28. Thus, the Office appropriately requires the submission of corroborative documentary evidence to establish an application filing date.

A review of the application file reveals that the file contains:

Patent Application Coversheet

Declaration/Power of Attorney
Small Entity Statement
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The stamped postcard receipt listed a "Utility Patent Application"; however, Office records reveal that there is nothing in the record to correspond to a "Utility Patent Application" that was listed on the postcard. Also, as Applicant notes, the postcard was not annotated to indicate that any item was not received. As such, the postcard evidence is sufficient evidence of receipt of a utility patent application[3]. Accordingly, the petition to withdraw the Notice of Incomplete Nonprovisional Application and is granted.

Facsimile transmission of application papers

Because the application papers sent via facsimile on August 4, 2004, were not for the purpose of obtaining a filing date, the papers are acceptable. *Accord*, 37 CFR §§ 1.6, 1.8.

Applicant is also advised that, in response to a Notice of Incomplete Nonprovisional Application, Applicant may:

> (A) file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), asserting that (1) the missing specification was submitted, or (2) the application papers as deposited contain an adequate written description under 35 U.S.C. 112. The petition under 37 CFR 1.53(e) must be accompanied by sufficient evidence (37 CFR 1.181(b)) to establish applicant's entitlement to the requested filing date (e.g., a date-stamped postcard receipt (MPEP § 503) to establish prior receipt in the USPTO of the missing specification);

[3] Applicant is reminded that "the postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard."

> (B) submit the omitted specification, including at least one claim in a nonprovisional application, accompanied by an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to the specification being submitted and accept the date of such submission as the application filing date; or (C) submit an amendment under 37 CFR 1.57(a). If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the specification was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted specification pursuant to 37 CFR 1.57(a). The amendment must be accompanied by a petition under 37 CFR 1.57(a)(3) along with the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. The amendment should be identified as an amendment pursuant to 37 CFR 1.57(a) and must comply with the requirements of 37 CFR 1.57(a) and 37 CFR 1.121. The 2-month period is not extendable under 37 CFR 1.136. (Emphasis supplied).

MPEP 601.01(d)

Conclusion

The Notice of Incomplete Nonprovisional Application and the Notice of Termination of Proceedings were mailed in error and are hereby withdrawn.

The copy of 5 pages of Specification, 2 pages of Claims, 1 page Abstract, and 4 sheets of drawings, filed with the petition on October 20, 2005, will be used for examination purposes.

A review of the Application and petition papers reveals that no authorization to refund the petition fee has been filed. Petitioner should request a refund of the petition fee by writing to the Finance Office, Refund Section, and include a copy of this Decision.

The application will be returned to the Office of Initial Patent Examination for withdrawal of the Notices, and for further processing with a filing date of June 1, 2004, and an indication that 5 pages of specification, 2 pages of claims, 1 page Abstract, and 4 sheets of drawings were included among the application papers filed on June 1, 2004, using 5 pages of specification, 2 pages of claims, 1 page Abstract, and 4 sheets of drawings filed with the petition on October 20, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

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INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of
D'Costa, et al.
Application No. 10/859,407
Filed: June 1, 2004
Attorney Docket No. BEA920030034US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 5, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed September 4, 2008. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed December 29, 2008.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: ROCHELLE LIEBERMAN
Lieberman & Brandsdorfer, LLC
802 Still Creek Lane
Gaithersburg, MD 20878--321

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THOMAS E. KOCOVSKY, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE
SUITE 700
1100 SUPERIOR AVENUE
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Guy A. Lavi, et al.	:	
Application No. 10/859,427	:	DECISION ON PETITION
Filed: June 2, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PHUS030258US		

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 18, 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Thomas M. Lundin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, the accompanying change of correspondence address will **not** be processed. A courtesy copy of this decision is being mailed to petitioner. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED**.

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

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

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

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

The instant pending nonprovisional application was filed on June 2, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/491,006, which was filed on July 30, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

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

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

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

---

[1] *Note* 37 CFR 1.121

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 14-1270.

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

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

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

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

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

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

Frances Hicks
Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: THOMAS M. LUNDIN
PHILIPS INTELLECUTAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND, OH 44143

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595 MINER ROAD
CLEVELAND, OH 44143

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OFFICE OF PETITIONS

In re Application of :
Guy A. Lavi, et al. :
Application No. 10/859,427 :
Filed: June 2, 2004 :
Attorney Docket No. PHUS030258US :

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

This is a decision on the renewed petition, filed October 19, 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 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.

This pending nonprovisional application was filed on June 2, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/491,006, which was filed on July 30, 2003, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

Accordingly, having found that the petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition is granted.

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

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

The application is being forwarded to Technology Center AU 3762 for appropriate action on the amendment submitted October 19, 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. 60/491,006.

Sherry D. Brinkley

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

Frances M. Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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ALEXANDRIA, VA 22313-1450
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DALY, CROWLEY, MOFFORD & DURKEE. LLP
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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In re Application of :
Gary Chee Wooi Teoh :
Application No. 10/859,431 : ON PETITION
Filed: June 2, 2004 :
Attorney Docket No. P18641 :

This is a decision in response to the petition, filed May 22, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 22, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 23, 2007. A Notice of Abandonment was mailed on April 9, 2008. In response, on May 22, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the amendment received May 22, 2008.

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

/Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET, SUITE 800
SAN FRANCISCO, CA 94107-1907

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OCT 1 0 2006

OFFICE OF PETITIONS

In re Application of
WILLIAMS, et al.
Application No. 10/859448
Filed: June 2, 2004
Attorney Docket No. DP-06-02

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 31, 2006.

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

A review of the file record indicates that the power of attorney to Linda Judge and all attorneys of record have been revoked by the assignee of the patent application on September 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: **JACKSON & CO., LLP**
6114 LA SALLE AVENUE, SUITE 507
OAKLAND CA 94611-2802

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/859,448	06/02/2004	Jeffery David Williams	DP-06-02

CONFIRMATION NO. 7123

OC000000020706600

29585
DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1907

Date Mailed: 10/04/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/859,448	06/02/2004	Jeffery David Williams	DP-06-02

CONFIRMATION NO. 7123

OC000000020706643

30349
JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND, CA 94611-2802

Date Mailed: 10/04/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JACKSON & CO., LLP
6114 LA SALLE AVENUE, #507
OAKLAND, CA 94611-2802

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MAR 1 8 2009

OFFICE OF PETITIONS

In re Application of

Jeffrey D. **WILLIAMS, et al.**
Application No. 10/859,448
Filed: June 2, 2004
Attorney Docket No. **DP-06-02**

DECISION ON PETITION TO WITHDRAW FROM RECORD UNDER 37 CFR 1.36(b)

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 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 Seong-Kun Oh on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address as it 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 non-final office action mailed February 23, 2009 that requires a reply from the applicant.

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JEFFERY DAVID WILLIAMS**
6 DISCOVERY WAY
CHICO, CA 95973

cc: **PILLSBURY WINTHROP SHAW PITTMAN, LLP**
P.O. BOX 10500
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston, and William Drake
Application No. 10/859,463
Filed: June 2, 2004
Attorney Docket No. RIC04014
Title: ERROR DETECTION AND REPORTING

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 26, 2004.

On June 2, 2004, the application was deposited, identifying Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston, and William Drake as joint inventors. The application

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

was deposited with a declaration which was not executed. On July 29, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed declaration, a surcharge of $130.00, the basic filing fee, and additional claim fees were required. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner submitted the petition fee and surcharge, the basic filing fee, additional claim fees, and a one-month extension of time to make timely this response.

Petitioner further included a declaration which was executed by the first eight of the listed joint inventors. Joint inventor Drake did not execute the declaration, and joint inventor Bengston did not appear on the declaration. Since the inventorship differed from that which was submitted on filing, a "Notice of Incomplete Reply" was mailed on November 12, 2004, which set a two-month period for response and indicated that Mr. Bengston's signature did not appear on the declaration.

On November 29, 2004, a reply was received, which indicated that Mr. Bengston's name had been erroneously listed on the declaration. However, this contradicts not only the declaration which was submitted on filing, but the petition of October 26, 2004 as well, which lists Mr. Bengston as an "available joint inventor[2]."

With the instant petition, Petitioner has met requirements (1) and (2) above. Petitioner has listed the last known address for joint inventor Drake, and has indicated that a complete copy of the declaration was mailed to this address.

At this point, it is not clear whether Mr. Bengston is a joint inventor, since subsequent to filing the unexecuted declaration, Petitioner has both stated that he was named in error, and described him as a joint inventor.

37 C.F.R. §1.48(f) sets forth that if the correct inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed declaration by any of the inventors, the first submission of an executed declaration by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. However, with the instant application, along with the submission of the executed declaration which would otherwise correct the earlier identification of inventorship, Petitioner has listed the erroneously included inventor as a joint inventor. Hence, there is a discrepancy as to the inventorship of the application, and Petitioner will need to clarify the inventorship on renewed petition.

If Mr. Bengston is a joint inventor, Petitioner will need to reveal his last known address and either provide proof that a complete copy of the application was sent to this address or establish that he could not be located. Petitioner will also need to have a new declaration executed by each of the non-signing inventors which lists Mr. Bengston as a joint inventor.

If Mr. Bengston is not a joint inventor, no further action need be taken but for the filing of a statement on renewed petition which sets forth that the inclusion of Mr. Bengston as a joint

---

2 Petition, page 2, paragraph 4.

inventor in the fourth paragraph on the second page of the original petition was a typographical error.

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

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

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

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

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

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

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

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DOCKETED
Due Date
4/1/2005

Paper No. None

MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of
Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston, and William Drake
Application No. 10/859,463
Filed: June 2, 2004
Attorney Docket No. RIC04014
Title: ERROR DETECTION AND REPORTING

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 26, 2004.

On June 2, 2004, the application was deposited, identifying Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston, and William Drake as joint inventors. The application

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

was deposited with a declaration which was not executed. On July 29, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed declaration, a surcharge of $130.00, the basic filing fee, and additional claim fees were required. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner submitted the petition fee and surcharge, the basic filing fee, additional claim fees, and a one-month extension of time to make timely this response.

Petitioner further included a declaration which was executed by the first eight of the listed joint inventors. Joint inventor Drake did not execute the declaration, and joint inventor Bengston did not appear on the declaration. Since the inventorship differed from that which was submitted on filing, a "Notice of Incomplete Reply" was mailed on November 12, 2004, which set a two-month period for response and indicated that Mr. Bengston's signature did not appear on the declaration.

On November 29, 2004, a reply was received, which indicated that Mr. Bengston's name had been erroneously listed on the declaration. However, this contradicts not only the declaration which was submitted on filing, but the petition of October 26, 2004 as well, which lists Mr. Bengston as an "available joint inventor[2]."

With the instant petition, Petitioner has met requirements (1) and (2) above. Petitioner has listed the last known address for joint inventor Drake, and has indicated that a complete copy of the declaration was mailed to this address.

At this point, it is not clear whether Mr. Bengston is a joint inventor, since subsequent to filing the unexecuted declaration, Petitioner has both stated that he was named in error, and described him as a joint inventor.

37 C.F.R. §1.48(f) sets forth that if the correct inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed declaration by any of the inventors, the first submission of an executed declaration by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. However, with the instant application, along with the submission of the executed declaration which would otherwise correct the earlier identification of inventorship, Petitioner has listed the erroneously included inventor as a joint inventor. Hence, there is a discrepancy as to the inventorship of the application, and Petitioner will need to clarify the inventorship on renewed petition.

If Mr. Bengston is a joint inventor, Petitioner will need to reveal his last known address and either provide proof that a complete copy of the application was sent to this address or establish that he could not be located. Petitioner will also need to have a new declaration executed by each of the non-signing inventors which lists Mr. Bengston as a joint inventor.

If Mr. Bengston is not a joint inventor, no further action need be taken but for the filing of a statement on renewed petition which sets forth that the inclusion of Mr. Bengston as a joint

2 Petition, page 2, paragraph 4.

inventor in the fourth paragraph on the second page of the original petition was a typographical error.

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

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

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

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

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

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. None

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TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of
Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, and William Drake
Application No. 10/859,463
Filed: June 2, 2004
Attorney Docket No. RIC04014
Title: ERROR DETECTION AND REPORTING

DECISION ON RENEWEDPETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed March 3, 2005.

On June 2, 2004, the application was deposited, identifying Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, and William Drake as joint inventors. The application was deposited with a declaration which was not executed. On July 29, 2004, a "Notice to File Missing Parts of

[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.

Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed declaration, a surcharge of $130.00, the basic filing fee, and additional claim fees were required. This Notice set a two-month period for reply.

Along with the original petition, Petitioner submitted the petition fee and surcharge, the basic filing fee, additional claim fees, and a one-month extension of time to make timely this response.

The original petition, submitted on October 26, 2004, was dismissed via the mailing of a decision on February 1, 2005, due to an ambiguity as to the inventorship of the application.

With this renewed petition, Petitioner has indicated that Mr. Bengston is not a joint inventor.

The correct inventors were not named on filing the nonprovisional application under § 1.53(b) without an executed declaration by any of the inventors. Therefore, pursuant to 37 C.F.R. 1.48(f), the first submission of an executed declaration by any of the inventors during the pendency of the application (submitted along with the original petition) will act to correct the earlier identification of inventorship.

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

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

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

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

Paul Shanoski

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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William Drake
2866 Beltline Road, Apt 377
Garland, TX 75044

In re Application of
Nick Delregno, Scott R., Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, and William Drake
Application No. 10/859,463
Filed: June 2, 2004
Attorney Docket No. RIC04014
Title: ERROR DETECTION AND REPORTING

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OFFICE OF PETITIONS

LETTER

Dear Mr. Drake:

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

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

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

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

cc: MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/26/2010

Applicant	: Kei-Yong Khoo	: DECISION ON REQUEST FOR
Patent Number	: 7627842	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/859,465	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20036

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NOV 17 2004
OFFICE OF PETITIONS

In re Application of	:
Nick Delregno et al.	:
Application No. 10/859,468	: DECISION ACCORDING STATUS
Filed: June 2, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. RIC04016	:

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

The petition is **GRANTED**.

The above-identified application was filed on June 2, 2004, naming Nick Delregno, Scott R. Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston and William Drake as joint inventors but without a signed declaration. Accordingly, on July 28, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on October 26, 2004, an oath or declaration executed by joint inventors Delregno, Kotrla, McDysan, Bencheck, Turlington, Hardin, Schell, Chiu and Bengston and, a petition under 37 CFR 1.47(a) and a request for a one month extension f time was filed. The petition argues that joint inventor Drake refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Drake and that in spite of a telephone conversation between Mr. Drake and the attorney of record, as well as subsequent correspondences to Mr. Drake, he has failed to return an executed 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.

The petition fee, surcharge for late filing of oath or declaration and extension of time fee have been charged to deposit account no. 13-2491 as per the authorization made in the petition.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM DRAKE
2866 BELTLINE ROAD, APT #377
GARLAND, TX 75044

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Nick Delregno et al.
Application No. 10/859,468
Filed: June 2, 2004
For: APPARATUS AND METHOD FOR TESTING AND FAULT ISOLATION IN A COMMUNICATION NETWORK

Dear Mr. Drake:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AUG 17 2004

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

In re Application of	:
Jiacheng Zhou et al	:
Serial No.: 10/859,476	: PETITION TO MAKE SPECIAL
Filed: June 3, 2004	:
Attorney Docket No.: RIB-021	:

This is in response to applicants' petition filed June 3, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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Alexandria, VA 22313-1450
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON, MA 02109-2881

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Lou, et al :
Application No. 10/859,476 :
Filed: June 2, 2004 :
Attorney Docket No. RIB-021 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 3, 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. Rongliang Lou
2. Jiacheng Zhou
3. Ashoke Bhattacharjee
4. Shili Chen
5. Yi Chen
6. Jay J. Farmer
7. Joel A. Goldberg
8. Roger Hanselmann
9. Alia Orbin
10. Adegboyega K. Oyelere
11. Joseph M. Salvino

12. Dane M. Springer

13. Jennifer Tran

14. Deping Wang

15. Yusheng Wu

This application is being forwarded to Publishing Division.

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

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

WILLIAM L. PARADICE, III
2686 MCALLISTER STREET
SUITE 1
SAN FRANCISCO, CA 94118

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MAR 07 2005

OFFICE OF PETITIONS

In re Application of :
Sandeep Khanna :
Application No. 10/859,477 : ON PETITION
Filed: June 1, 2004 :
Attorney Docket No. P248/WLP :

This is a decision on the papers styled, "Petition To Include Drawing Figure," filed January 21, 2005, which has been treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of June 1, 2004, including Figure 9.

The application was submitted on June 1, 2004. However, on July 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Nonprovisional Application," (Notice) that stated the application had been accorded a filing date, and that Figure 9 appears to have been omitted.

In response, on January 21, 2005, the instant petition and a copy of the Figure 9 were submitted.

Petitioner has submitted $130.00 for the petition fee. However, as of December 8, 2004, the required fee has increased to $400.00. An additional $270.00 is required before the petition will be reviewed on the merits.

Accordingly, the petition is dismissed.

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 <u>not</u> be extended pursuant to 37 CFR 1.136.

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

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

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

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

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

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

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

WILLIAM L. PARADICE, III
2686 McALLISTER STREET
SUITE 1
SAN FRANCISCO, CA 94118

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Sandeep Khanna	:	
Application No. 10/859,477	:	ON PETITION
Filed: June 1, 2004	:	
Attorney Docket No. P248/WLP	:	

This is a decision on the papers styled, "Petition To Include Drawing Figure," filed January 21, 2005, and supplemented on April 8, 2005, which has been treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of June 1, 2004, 2003, including Figure 9.

The application was submitted on June 1, 2004. However, on July 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Nonprovisional Application," (Notice) that stated the application had been accorded a filing date, and that Figure 9 appears to have been omitted.

In response, on January 21, 2005, the original petition and a copy of the Figure 9 were submitted.

Petitioner states, "A drawing sheet labeled FIG. 9 was inadvertently omitted from the original filing of this application...

The application as filed incorporates by reference U.S. Patent 6,243,281, as indicated in paragraph [0004] of the present application. The material disclosed in U.S. Patent 6,243,281, which issued nearly 3 years prior to the filing date of the present application, provides background material for the present invention. Specifically, an exemplary implementation of the invention disclosed in the present application is described with respect to the well-known CAM device described in U.S. Patent 6,243,281. The omitted FIG. 9 of the present invention, which describes a portion of the well-known CAM device of U.S. Patent

6,243,281, was copied directly from U.S. Patent 6,243,281. Indeed, the omitted FIG. 9 of the present application is an exact copy of FIG. 14 of U.S. Patent 6,243,281, except that some of the reference numbers are modified for the present application. A copy of FIG. 14 from U.S. Patent 6,243,281 is attached hereto for the Examiner's convenience"

Applicant request to add Figure 9 to the present application on the basis that Figure 9 was incorporated by reference. However, no petition is necessary for that purpose.

If applicants desire that Figure 9 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the Figure. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is dismissed.

Please note, the petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be forwarded to Technology Center 2800 for examination *in due course*.

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

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

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

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

The application shall retain the June 1, 2004 filing date, consisting of the papers filed on that date.

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

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

Conferees: CD, NJ

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WILLIAM L. PARADICE, III
2686 MCALLISTER STREET
SUITE 1
SAN FRANCISCO, CA 94118

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AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Khanna	:	DECISION ON PETITION
Application No. 10/859,477	:	
Filed: June 1, 2004	:	
Docket No.: P248/WLP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 31, 2006 for failure to timely submit formal drawings as required by the Notice of Allowability (Notice) mailed December 30, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed May 9, 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 Publications Division for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of
Kinsella et al.
Application No. 10/859,507
Filed: June 2, 2004
Attorney Docket No. ETC7455.058
For: METHOD AND SYSTEM OF CONTROLLING ASYNCHRONOUS CONTACTORS FOR A MULTI-PHASE ELECTRIC LOAD

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 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.**

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 proper fee, and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy (1).

Petitioner's evidence indicates that the last known mailing address and email address for James Kinsella are no longer accurate.

Petitioner states at least one message was left on an answering machine at the last known telephone number for Kinsella and that a return call was never made. However, the declaration fails to address if the outgoing message on the machine provides any indication that the individual is or is not Mr. Kinsella. Since the issue is not addressed, the Office will assume the message failed to indicate the phone number was accurate or not accurate.

Petitioner has taken steps to determine that the inventor is not where he used to live. However, 37 CFR 1.47(a) requires one to take steps to learn where petitioner is currently residing.

Petitioner does not have to try every single possible avenue in existence to location the inventor. However, some steps must be taken. For example, has petitioner contacted directory assistance to seek a current phone number for James Kinsella? Have any internet searches been performed using services such as yahoo people search?

Locating the inventor does not require physically locating the inventor. If a phone message is left on an answering machine which definitely belongs to him, and he fails to respond, his inaction can be interpreted as constructive refusal.

Any request of reconsideration should discuss further steps taken to locate James Kinsella.

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097

In re Application of Kinsella et al. Application No. 10/859,507 Filed: June 2, 2004 Attorney Docket No. ETC7455.058 For: METHOD AND SYSTEM OF CONTROLLING ASYNCHRONOUS CONTACTORS FOR A MULTI-PHASE ELECTRIC LOAD	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is a decision on the renewed petition under 37 CFR 1.47(a), filed March 29, 2005, and supplemented April 28, 2005, and June 3, 2005.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington DC 20037

In re Application of	:	
Arup Bhattacharyya	:	DECISION GRANTED
Application No. 10/859,543	:	
Filed: June 3, 2004	:	
Attorney Docket No.: M4065.0504/P504-A	:	

This is a decision on the petition filed June 30, 2005, requesting in effect, the Notice of Omitted Item(s) in a Nonprovisional Application contained in the "Notice to File Corrected Application Papers" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of June 3, 2004 including pages 5 and 28 of the specification (description and claims).

The application was filed on June 3, 2004. However, on May 12, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 3, 2004 but pages 5 and 28 of the specification (description and claims) appeared to have been omitted. The Notice also requested replacement drawings.

In response, the present petition was filed wherein Petitioner contends pages 5 and 28 of the specification were filed on June 3, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists " Specification 31 pages". The petition is further accompanied by a copy of pages 5 and 28 of the specification.

Applicant's postcard receipt is prima facie evidence that pages 5 and 28 of the specification (description and claims) were received on June 3, 2005, but pages 5 and 28 are not present in the file. Therefore, it is concluded that pages 5 and 28 were received on June 3, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted to the extent it applies to the omitted pages of specification. The $400.00 petition fee will be refunded.

Since page 5 and 28 of the specification (description and claims) cannot be located in the Office, pages 5 and 28 supplied on June 30, 2005, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 3, 2004, using the specification (description and claims) submitted on June 3, 2004 and copy pf pages 5 and 28 of the specification (description and claims) supplied on June 30, 2005.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 10/859,543

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition		6/30/05	$ 400
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$ 400

7 TOTAL AMOUNT OF REFUND $ 400

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:
9	[ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Petition Granted

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: CHARLEMA GRANT TITLE: _____

SIGNATURE: C. Grant PHONE: X-3215

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Keller DATE: 8/10/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 06/08/2010

Applicant	: Franck Le	: DECISION ON REQUEST FOR
Patent Number	: 7668145	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/859,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1638** 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

HENRY TIEN LO
3609 MELONIES DRIVE, #96
LAS VEGAS, NV 89103

COPY MAILED

AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Henry Tien Lo	:	
Application No. 10/859,562	:	DECISION ON PETITION
Filed: September 1, 2004	:	
For: CARD GAME	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 30, 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 1, 2006. A Notice of Abandonment was mailed on January 19, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

The instant petition lacks item (1). The petition is accompanied by a reply in the form of three terminal disclaimers to overcome a nonstatutory double patenting rejection and one fee of $65. However, where more than one terminal disclaimer is submitted, a fee is required for the recording of each terminal disclaimer. Therefore, as petitioner has submitted three and has paid for one, an additional $130 fee is due. Alternatively, petitioner may wish include all the patents on one terminal disclaimer.

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

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

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HENRY TIEN LO
3609 MELONIES DRIVE, #96
LAS VEGAS, NV 89103

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Henry Tien Lo	:	
Application No. 10/859,562	:	DECISION ON PETITION
Filed: September 1, 2004	:	
Attorney Docket No.	:	

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 30, 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 1, 2006. A Notice of Abandonment was mailed on January 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of a terminal disclaimer, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 30, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3711 for appropriate action in the normal course of business on the reply received September 13, 2007.

Telephone inquiries concerning this decision should 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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036-5339

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APR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Shingo Hokuto et al	:	
Application No. 10/859,575	:	DECISION GRANTING PETITION
Filed: June 3, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 027162-00002	:	

This is a decision on the petition, filed April 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 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\Apr10\859575.wpd

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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MAR 06 2007

OFFICE OF PETITIONS

In re Application of :
Nagaoka et al. :
Application No. 10/859584 :
Filing or 371(c) Date: 06/02/2004 :
Attorney Docket Number: :
01-162-US2 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.8", filed October 19, 2006. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 27, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned June 28, 2006. A Notice of Abandonment was mailed October 11, 2006.

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on August 28, 2006. In support of this assertion, Applicant files a copy of the Reply, which includes a Certificate of Mailing under 37 CFR 1.8, executed by Rachel Piscitelli. No statement from Ms Piscitelli attesting to the transmission has been filed.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, .The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> (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.
(c) The Office may require additional evidence to determine if the correspondence was timely filed. (Emphasis supplied).

37 CFR 1.8(b)

Analysis and conclusion

Applicant has failed to comply with 37 CFR 1.8(b)(3). In this regard, a statement from Ms. Piscitelli, which attests on a personal knowledge basis to the previous timely mailing or transmission, is required. The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition which includes the necessary statement.

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

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

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

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
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900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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APR 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Nagaoka et al. :
Application No. 10/859584 :
Filing or 371(c) Date: 06/02/2004 :
Attorney Docket Number: :
01-162-US2 : ON PETITION

This is a decision on the "Request for Reconsideration of Petition, filed March 23, 2007. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 27, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned June 28, 2006. A Notice of Abandonment was mailed October 11, 2006.

Applicant filed a petition on October 19, 2006 and asserted that a timely reply to the Office action was filed on August 28, 2006. In support of this assertion, Applicant filed a copy of the Reply, which included a Certificate of Mailing under 37 CFR 1.8, executed by Rachel Piscitelli. No statement attesting to the timely mailing of the reply in accordance with 37 CFR 1.8(b)(3) from Ms Piscitelli attesting to the transmission was filed.

The petition was dismissed without prejudice.

Applicant files the present request for reconsideration of petition, and includes a statement from Ms Piscitelli, which attests on a personal knowledge basis to the timely mailing of the reply.

The petition is granted.

The application will be referred to Technology Center Art Unit 2876 for processing of the reply to the Office action filed October 19, 2006 in the normal course of business.

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

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 / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Uwe Reeder	: DECISION ON REQUEST FOR
Patent Number	: 7581204	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/859,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Cho et al. : DECISION ON PETITION
Application No. 10/859,608 :
Filed: June 3, 2004 :
Atty Docket No. 2003P18820US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 22, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed February 13, 2006. 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 May 14, 2006. A courtesy Notice of Abandonment was mailed on September 13, 2006.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3752 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed February 22, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND TX 77406-1247

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JAN 11 2008
OFFICE OF PETITIONS

In re Application of	:	
Strack et al.	:	
Application No. 10/859611	:	NOTICE
Filed: 06/01/2004	:	
Attorney Docket No. KJT-04-02	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

D Wood

Douglas Wood
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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APR 30 2009

OFFICE OF PETITIONS

Myers Bigel Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of	:	
Konstantin Glukh et al.	:	
Application No. 10/859,633	:	DECISION ON PETITION
Filed: June 3, 2004	:	TO WITHDRAW
Attorney Docket No. 9375-66	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2006.

The request is **moot because a revocation of power of attorney has been accepted**.

A review of the file record indicates that the power of attorney to Mitchell S. Bigel and all attorneys/agents of record have been revoked by the assignee of the patent application on May 22, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Burr & Brown
P.O Box 7068
Syracuse, NY 13261-7068

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JJGJR.: 03-05

Paper No: __

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

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MAR 2 4 2005
OFFICE OF PETITIONS

In re Application of	:	
Gumbert, et al.	:	
Application No. 10/859,638	:	ON PETITION
Filed: 3 June, 2004	:	
Attorney Docket No. 27392/26906	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 3 February, 2005.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the instant application was filed on 3 June, 2004, without, *inter alia*, a fully executed oath/declaration;

- on 28 July, 2004, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration was required within two months;

- on 3 February, 2005, Petitioner James P. Zeller (Reg. No. 28,491) filed the instant petition (with request and fee for extension of time), along with an oath/declaration containing the signatures of named co-inventor Mr. Gumbert, but without the signature of named co-inventor Axel Hildebrand (Mr. Hildebrand), a narration regarding the matter and declaration of Michael Schroder, identified as the vice president of the assignee–however, the documents provided evidence expressly that only the oath/declaration and the assignment were sent to Mr. Hildebrand, and make no mention of the entire application (description, claims, abstract, drawings) having been presented to the non-signing inventor Mr. Hildebrand.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by

any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing

to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only <u>must a copy of the entire application must be sent to the last known address of the non-signing inventor</u> (or the estate representative) with a request that he/she sign the declaration

for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands it is clear that the entire application was not presented to the non-signing inventor Mr. Hildebrand. A copy of the transmittal letter, evidencing that the entire application (description, claims, abstract and drawings) were presented to him, should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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

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[1] See: MPEP 409.03(b).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-05

Paper No: __

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

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Gumbert, et al.	:	
Application No. 10/859,638	:	ON PETITION
Filed: 3 June, 2004	:	
Attorney Docket No. 27392/26906	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 27 July, 2005.

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the instant application was filed on 3 June, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 28 July, 2004, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration was required within two months;
- on 3 February, 2005, Petitioner James P. Zeller (Reg. No. 28,491) filed the instant petition (with request and fee for extension of time), along with an oath/declaration containing the signatures of named co-inventor Mr. Gumbert, but without the signature of named co-

inventor Axel Hildebrand (Mr. Hildebrand), a narration regarding the matter and declaration of Michael Schroder, identified as the vice president of the assignee–however, the documents provided evidence expressly that only the oath/declaration and the assignment were sent to Mr. Hildebrand, and make no mention of the entire application (description, claims, abstract, drawings) having been presented to the non-signing inventor Mr. Hildebrand; and so the petition was dismissed on 24 March, 2005;

- it now appears that the oath/declaration has been signed by all inventors.

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being forwarded for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of
PERSEN, Kenneth H. et al.
Application No. 10/859,649
Filed: June 03, 2004
Attorney Docket No. **115.0086US01/03-193**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2009.

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

A review of the file record indicates that the power of attorney to CASCADIA INTELLECTUAL PROPERTY has been revoked by the assignee of the patent application on February 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1630

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MINNEAPOLIS, MN 55402-1630

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OFFICE OF PETITIONS

In re Application of :
Kenneth PERSEN et al. :
Application No. 10/859,649 :
Filed: June 03, 2004 :
Attorney Docket No. 115.0086US01/03-193 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 2009, 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 June 01, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 25, 2009. *See* MPEP 1215.04.

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 amended brief; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-Compliant Appeal Brief of October 01, 2009 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3762 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

IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE 406
PALO ALTO, CA 94303

COPY MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
Hye S. CHI, et al. :
Application No. 10/859,659 :
Filed: June 3, 2004 :
Attorney Docket No. **RPS920040006US1** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 $1620; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Joseph A. Sawyer, Jr. appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The application is being referred to Technology Center Art Unit 2629 for consideration of the amendment filed February 27, 2008.

Inquiries regarding the status or examination of the application should be directed to the examiner.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	: Harold W. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7664534	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/859,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **956** 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

C. JAMES BUSHMAN
5851 San Felipe
SUITE 975
HOUSTON TX 77057

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Jerry L. McKinney	:	
Application No. 10/859,685	:	DECISION ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. JLM 2002 Trust-14-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 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, February 20, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 21, 2009. The Notice of Abandonment was mailed September 11, 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.

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

This application is being referred to Technology Center AU 3628 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/18/09

2 Serial/Patent # 10/859,685

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition		09/24/09	$ 1,620.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,620.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 2 -- 4 3 4 5

10 REASON:

	Overpayment
X	Duplicate Payment
	No Fee Due (Explanation):

The petition fee has been charged twice.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson TITLE: Paralegal Specialist

SIGNATURE: Terri Johnson PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: KD DATE: 11-19-09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) JLM 2002 Trust-14-1

First named inventor: Jerry L. McKinney

Application No.: 10/859,685 Art Unit: 3628

Filed: 06/03/2004 Examiner: Vetter, Daniel

Title: Regulated Environmental Equipment Monitoring System and Method

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☑ Other than small entity-fee $ 1,620 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Office Action (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

Adjustment date: 11/19/2009 LDIEP1
09/25/2009 INTEFSW 00001684 024345 10859685
01 FC:1453 1620.00 CR

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/C. James Bushman/	September 23, 2009
Signature	Date
C. James Bushman	24,810
Type or Printed name	Registration Number, If applicable
5851 San Felipe, Suite 975	713-266-5593
Address	Telephone Number
Houston, TX 77057	
Address	

Enclosures:

☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TYCO HEALTHCARE GROUP, LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Frank J. Viola	:	
Application No. 10/859,693	:	DECISION ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 2675 CON	:	

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

This application became abandoned for failure to timely pay the issue and publication fees on or before January 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 8, 2008. Accordingly, the date of abandonment of this application is January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICES
JOSEPH R BIRKNER M E
4 EARLEY ROAD
PEABODY, MA 01960-1218

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DEC 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Gar Linscott	:	
Application No. 10/859,711	:	DECISION ON PETITION
Filed: June 3, 2004	:	TO WITHDRAW
Attorney Docket No. GARLIN-51	:	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 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 Joseph R. Birkner who is associated with customer No. 23341.

The attorney associated with the Customer Number 23341 has 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.

This matter is being referred to Technology Center AU 3723 to await applicant's reply to the non-final Office action mailed August 24, 2005.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: HERBERT GARFIELD LINSCOTT
71 NOKOMIS ROAD
HINGHAM, MA 02043

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Simon Cassar
2431 Tuckahoe Terrace
Watsonville, CA 95076

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
Simon Ralph Cassar :
Application No. 10/859,714 :
Filed: June 3, 2004 :
Attorney Docket No. :

DECISION ON PETITION

This is a decision on the correspondence received on April 23, 2008, which will be treated as a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed September 5, 2006, which set a time 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 application became abandoned on December 6, 2006. A Notice of Abandonment was mailed on April 11, 2007.

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

As to item (1) a proper reply to the Office action mailed on the Office action mailed on May 26, 2006.

As to item (2) a petition fee of $770 is required for a Petition to Revival of an Abandoned application. This fee was not submitted with this petition.

For item (3) the statement of unintentional delay that is required is provided on form no. PTO/SB/ 64 a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b). We had provided a copy of this petition for your convenience.

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Form No. PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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OCT 2 2 2008

OFFICE OF PETITIONS

Simon Cassar
2431 Tuckahoe Terrace
Watsonville, CA 95076

In re Application of	:	
Simon Ralph Cassar	:	
Application No. 10/859,714	:	DECISION ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed September 5, 2006, which set a time 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 application became abandoned on October 6, 2006. A Notice of Abandonment was mailed on April 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

The petition decision mailed on July 29, 2008 dismissed the petition filed on April 23, 2008 for failure to provide a proper reply, petition fee and a statement of unintentional delay. The renewed petition includes all requirements necessary to grant this petition.

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

This application is being referred to Technology Center AU 1744 for appropriate action by the Examiner in the normal course of business on the reply received September 24, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DECKER, JONES, MCMACKIN, MCCLANE, HALL &
BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH TX 76102-6836

COPY MAILED

MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of Brooks et al. :
Application No. 10/859,720 : DECISION ON PETITION
Filing Date: June 3, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5959.37025 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

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

The application is being forwarded to Technology Center Art Unit 3728 for consideration by the examiner of the claim under 35 U.S.C. §119(e), made in the amendment filed May 15, 2007, for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/859,720	06/03/2004	3728	1616	5959.37025	45	10

CONFIRMATION NO. 9351

CORRECTED FILING RECEIPT

OC000000029701363

21000
DECKER, JONES, MCMACKIN, MCCLANE, HALL & BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH, TX 76102-6836

Date Mailed: 05/01/2008

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

Applicant(s)

Ray G. Brooks, Bedford, TX;
Timothy W. Brooks, Arlington, TX;

Power of Attorney: The patent practitioners associated with Customer Number 21000

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/476,790 06/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/859,720**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Integrated circuit wafer packaging system and method

Preliminary Class

206

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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TECHNOLOGY CENTER 3600

LLYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

In re application of Leonid Shavartsman et al. Application No. 10/859,728 Filed: June 04, 2004 For: DEVICE FOR PRODUCING EMULSIONS, SUSPENSIONS AND THE LIKE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on January 31, 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 **DISMISSED**.

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

It is not clear if the document provided is a birth certificate because it is not in English. Therefore, the birth date can not be ascertained.

Any request for re consideration must be filled within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

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

KJD/slb: 03/21/05

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ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Shvartsman et al.	:	
Application No. 10/859,728	:	ON PETITION
Filed: June 4, 2004	:	
Title: DEVICE FOR PRODUCING EMULSIONS, SUSPENSIONS AND THE LIKE	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 26, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's Russian birth certificate, which includes the date-of-birth. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 1723 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
James D. Ralph, et al.	:	
Application No. 10/859,729	:	DECISION ON PETITION
Filed: June 3, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. F-218 CONI	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on September 8, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1) above. In this regard, petitioner submitted an Application Data Sheet (ADS) which is not signed in accordance with 37 CFR 1.33 and 10.18. See also 37 CFR 1.4(d) for the form of the signature. It is noted that an amendment was simultaneously filed; however the amendment is not acceptable as drafted since it improperly incorporates by

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

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of	:
James D. Ralph, et al.	:
Application No. 10/859,729	: DECISION ON PETITION
Filed: June 3, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SPINE 3.0-436 PPP II CONT	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Brian R. Tomkins 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 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

[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).

> **(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) 272-3204. 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 3738 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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/859,729	06/03/2004	3738	385	SPINE 3.0-436 PPP II CONT	10	3

CONFIRMATION NO. 7671

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000035187042

Date Mailed: 03/26/2009

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)

James D. Ralph, Seaside Park, NJ;
Thomas J. Errico, Summit, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 36402

Domestic Priority data as claimed by applicant

This application is a CON of 10/040,801 01/07/2002 PAT 6,764,515
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
which is a CIP of 09/968,046 10/01/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/859,729**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Intervertebral spacer device utilizing a spirally slotted belleville washer and a rotational mounting

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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.

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

NOT GRANTED

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

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SOUTH SAN FRANCISCO CA 94080

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FEB 07 2005

OFFICE OF PETITIONS

Applicant: Lee et al.
Appl. No.: 10/859,737
Filing Date: June 2, 2004
Title: VEGF-RELATED PROTEIN
Attorney Docket No.: P0963R1D3
Pub. No.: US 2004/0213790 A1
Pub. Date: October 28, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on November 26, 2004.

The request is DISMISSED.

The instant request is that the patent application publication, which published on October 28, 2004, be republished because the publication includes a material error in that it did not include the preliminary amendment to priority information, which was filed with the application on June 2, 2004 in the specification of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . ." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake in the publication by the Office because patent application publications do not include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),

---

[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).

[2] Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the applicant did not supply a substitute specification including the preliminary amendment to the specification. The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

The Office has encouraged applicants to file Continuation or Divisional applications with the preliminary amendments already contained within the specification papers to be included in the pre-grant publication. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 OG 54 (October 9, 2001).

The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. By publishing applications as amended, it is anticipated that the invention claimed in the published patent application is more likely to be "substantially identical" to the invention claimed in the issued patent, as required by 35 U.S.C. 154(d)(2). Moreover, by publishing applications as amended, the public has a better opportunity to determine the invention for which a patent is actually being sought, **as only the claims for which applicant has paid, and that are subject to examination, will be reflected in the patent application publication**. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004).

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on November 26, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be

accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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ANDREA Q. RYAN
1041 ROUTE 202-206
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BRIDGEWATER, NJ 08807

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OFFICE OF PETITIONS

In re Application of	:	
Mailliet et al.	:	
Application No. 10/859,740	:	DECISION ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. FRAV2003/0014 US NP	:	

This is a decision on the withdrawal of petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 2008, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

In view of the request to withdraw the Petition under 37 CFR 1.137(b) from consideration, petitioner is advised that the delay will be construed as intentional. Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Petitioner has requested a withdrawal of the petition and is therefore due a refund. Accordingly, the petition fee of $1,540.00 submitted July 10, 2008 will be credited to petitioner's Deposit Account as authorized.

Telephone inquiries concerning this decision should be directed Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

17 AUG 2005

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SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
IP Department
Newark, NJ 07102

In re Application of :
MAIONE, Theodore E. :
Application No.: 10/859,755 : **DECISION**
Filing Date: June 03, 2004 :
Attorney Docket No.: 12080024P001aUS :
For: A METHOD FOR IDENTIFYING :
MARKERS :

This decision is in response to the papers filed on 18 July 2005 which are treated as a petition to convert to a national stage application and a petition to accept an unintentionally delayed claim of priority under 37 CFR 1.55(c).

Petition to Convert to A National Stage

The subject application was filed under 35 U.S.C. 111(a). Petitioner requests to convert the subject application to a national stage application. Applicant claims that the Assignee intended that the above-captioned application to be filed as a national stage of PCT/US02/38463 pursuant to 35 U.S.C. 371.

This is treated as a petition under 37 CFR 1.182. The $400.00 fee has been charged to Deposit Account No. 03-1250 as authorized.

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will **only** grant such petitions upon a showing by applicant of sufficient cause (*e.g.*, the loss of patent rights) where **no** other remedy is available.

In the present case, applicant has not shown the loss of any patent rights.

Applicant is entitled to claim the benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application PCT/US02/38463 for the common subject matter, since this application and the international application designating the United States were copending on 03 June 2004. *See* MPEP 1895.01. A petition under 37 CFR 1.78 with the appropriate petition fee is required.

For this reason, applicant's petition to convert is hereby **DISMISSED** without prejudice.

Petition Under 37 CFR 1.55(c)

Applicant also requests "in accordance with § 1.55(c)" that the USPTO accept a claim in priority in the subject application under 35 U.S.C. 365 for PCT/US02/38463.

A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

(1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign 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 paragraph (a)(1) of this section and the date the claim was filed was unintentional.

In this case, petitioner has provided the surcharge fee and made the required statement. However, the claim for priority must be made under 35 U.S.C. 120 as PCT/US02/38463 designates the United States. As such, applicant must amend this petition to accept an unintentionally delayed claim in priority under 37 CFR 1.78, not 37 CFR 1.55(c).

For this reason, applicant's petition under 37 CFR 1.55(c) will not be decided at this time and be held in abeyance until receiving further instruction from applicant. Petitioner may contact the undersigned at the telephone number listed below.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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1 0 APR 2007

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SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
IP Department
Newark, NJ 07102

In re Application of MAIONE, Theodore E. Application No.: 10/859,755 Filing Date: June 03, 2004 Attorney Docket No.: 12080024P001aUS For: A METHOD FOR IDENTIFYING MARKERS	: : : : : : :	**DECISION**

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 17 October 2005 which is **DISMISSED** for the following reason:

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). 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 does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. 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, or international application number and international filing date) 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 or international 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 parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* § 201.11 MPEP, Rev. 2, May 2004, Reference to Prior Application.

In this case, applicant did not provide an amendment with the petition and the relationship of the prior filed international application filed on December 3, 2002 to the instant application is not identified on the original specification. Moreover, the reference contained in the original specification identifies the international application as "application Serial No. U.S. 02/38643." This is not acceptable. Applicants must use the international application number. *See* 37 CFR 1.78(a)(3).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship and international application number of the prior-filed application to the instant application is required.

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

By mail: Mail Stop PETITIONS
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40I Dulany Street
Alexandria, VA 22314

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

The $1,370.00 petition fee to accept an unintentionally delayed claim of priority under 37 CFR 1.55(c) submitted on 18 July 2005 will be credited to Deposit Account No. 03-1250 as authorized. Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
IP Department
Newark, NJ 07102

In re Application of :
MAIONE, Theodore E. :
Application No.: 10/859,755 : **DECISION**
Filing Date: June 03, 2004 :
Attorney Docket No.: 12080024P001aUS :
For: A METHOD FOR IDENTIFYING :
MARKERS :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed 10 May 2007 which is hereby **DISMISSED** without prejudice.

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.

With regard to item (2), Petitioner has paid the required surcharge fee. With regard to item (3), Petitioner's statement refers to 37 CFR 1.55. In that the requested relief would not be possible under 37 CFR 1.55, this statement has been construed to mean 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." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether

the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11. The amendment filed 10 May 2007 fails to state a proper relationship between the subject application and international application PCT/US02/38463, i.e., **continuation, continuation-in-part, or divisional.**

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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31 JUL 2007

SILLS CUMMIS EPSTEIN & GROSS P.C.
One Riverfront Plaza
IP Department
Newark, NJ 07102

In re Application of
MAIONE, Theodore E.
Application No.: 10/859,755
Filing Date: June 03, 2004
Attorney Docket No.: 12080024P001aUS
For: A METHOD FOR IDENTIFYING MARKERS

DECISION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed 22 June 2007 which is hereby **DISMISSED** without prejudice.

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). 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 renewed petition still does not comply with item (1).

In the decision mailed 06 June 2007, applicants were requested to submit a substitute amendment stating the relationship of the prior-filed application to the instant application. Here, applicants included a reference that the above-captioned application is a national stage patent application of PCT/US02/38463 filed 03 December 2002. However, the above-captioned application is not a national stage application of PCT/US02/38463. The above-captioned application was filed pursuant to 35 U.S.C. 111(a). The substitute amendment is not accepted.

Any questions concerning this matter may be directed to James Thomson at (571) 272-

10/859,755

3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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One Riverfront Plaza
IP Department
Newark, NJ 07102

In re Application of MAIONE, Theodore E. Application No.: 10/859,755 Filing Date: June 03, 2004 Attorney Docket No.: 12080024P001aUS For: A METHOD FOR IDENTIFYING MARKERS	:	**DECISION**

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed 11 September 2007 which is hereby **DISMISSED** without prejudice.

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). 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 renewed petition still does not comply with item (1).

In the decision mailed 06 June 2007, applicants were requested to submit a substitute amendment stating the relationship of the prior-filed application to the instant application. In the response filed 22 June 2007, applicants submitted a substitute amendment that incorrectly referenced that the above-captioned application is a national stage of PCT/US02/38463. As such, applicants' petition was again dismissed.

In the renewed petition filed 11 September 2007, applicants state that an amendment to the specification was enclosed. However, there was no amendment to the specification submitted.

Any questions concerning this matter may be directed to James Thomson at (571) 272-

10/859,755

3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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One Riverfront Plaza
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In re Application of :
MAIONE, Theodore E. :
Application No.: 10/859,755 : **DECISION**
Filing Date: June 03, 2004 :
Attorney Docket No.: 12080024P001aUS :
For: A METHOD FOR IDENTIFYING :
MARKERS :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed January 03, 2008 which is hereby **DISMISSED** without prejudice.

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). 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 renewed petition still does not comply with item (1).

Applicants submitted an amendment that states that the above-captioned application "is a continuation of a national stage filing under 35 U.S.C. 371 of PCT Application Serial No. PCT/US02/38463 filed under the Patent Cooperation Treaty on December 3, 2002, which claims priority under 35 U.S.C. 119(e) from U.S. Provisional Application Serial No. 60/334, 6066 filed December 3, 2001." However, the subject application is **not** a continuation of a national stage filing under 35 U.S.C. 371 of PCT/US02/38463. There is **no** national stage filing under 35 U.S.C. 371 of PCT/US02/38463. An amendment deleting the words "of a national stage filing under 35 U.S.C. 371" would correct the defect in the reference.

In addition, the reference to add the prior-filed applications is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not

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

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

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Alexandria, VA 22314

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

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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Newark, NJ 07102

In re Application of
MAIONE, Theodore E.
Application No.: 10/859,755
Filing Date: June 03, 2004
Attorney Docket No.: 12080024P001aUS
For: A METHOD FOR IDENTIFYING MARKERS

DECISION

This is a decision on the "Renewed Petition under 37 CFR 1.78" filed March 28, 2008 which is treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120, § 119(e) 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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference that the application "is a continuation of PCT Application Serial No. PCT/US02/38463 filed under the Patent Cooperation Treaty on December 3, 2002, which claims priority under 35 U.S.C. 119(e) from U.S. Provisional Application Serial No. 60/334, 6066 filed December 3, 2001" was submitted. This reference is acceptable. (2) the surcharge fee required by 37 CFR 1.17(t) has been previously paid; and (3) Applicants' statement in the present petition that "the entire delay between the date the priority claim was due under paragraph 37 CFR 1.78(a)(2)(ii) and the date this claim was filed was unintentional" is construed as meaning that "the entire delay between the date the claim was due under 37 CFR

1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional." If this is incorrect, applicant **MUST IMMEDIATELY** notify the Office of PCT Legal Administration. As so construed, then item (3) is satisfied.

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 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1631 for appropriate action on the amendment filed March 28, 2008.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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Alexandria, VA 22313-1450
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R. NEIL SUDOL
14 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Wilk et al	:	
Application No. 10/859,763	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. W07-513	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 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 26, 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 27, 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
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Docket No. 1232-5125

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Eiji SAKAMOTO		
		Group Art Unit:	2881
Patent No.:	7,078,706		
		Examiner:	Bernard SOUW
Issued:	July 18, 2006		

For: CHAMBER, EXPOSURE APPARATUS, AND DEVICE MANUFACTURING METHOD

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Commissioner for Patents
Office of Patent Publication
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is Form PTO-1050.

☐ All errors were the fault of the Patent and Trademark Office, no fee is required.

☒ Not all errors were the fault of the Patent and Trademark Office, please charge the requisite fee of $100 to Deposit Account No. **13-4500**, Order No. 1232-5125.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 1232-5125.

UNITED STATES 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

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AUG 28 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenneth J. Herzog :
Application No. 10/859,830 :
Filed: June 2, 2004 :
Attorney Docket No. :
P/2780-98 :

This is a decision in response to the Petition Under 37 CFR 1.10(d), filed July 11, 2005, requesting the application be accorded a filing date of June 2, 2004, instead of the presently accorded filing date of June 3, 2004. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Applicant alleges that the application was deposited in Express Mail service on June 2, 2004. In support of the allegation, the petition is accompanied by a copy of Applicant's Express Mail mailing label and Pickup Service Statement for Express Mail for Express Mail Label No. EV242529335US. Although the "Date In" indicated on the Express Mail label for Express Mail Label No. EV242529335US is June 3, 2004, the Pickup Service Statement for Express Mail Label No. EV242529335US is signed by an employee of the United States Postal Service and dated June 2, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

The application is being referred to the Office of Initial patent Examination for correction of the filing date to June 2, 2004.

Telephone inquiries concerning this matter should be directed to Attorney Derek L. Woods 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

Date :03/19/07

Patent No. : 7165949 B2
Ser. No. : 10/859,861
Inventor(s) : FIRNHABER, MARK A.
Issued : 01/23/07
Title : **CAVITATION NOISE REDUCTION SYSTEM FOR A ROTARY SCREW VACUUM PUMP**
Docket No. : 67036-044;B05654-SUL

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

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

LMN

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

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,165,949	:	
Application No. 10/859,861	:	
Filed: June 3, 2004	:	ON PETITION
Issued: January 23, 2007	:	
Attorney Docket No. 67036-044;B05654-SUL	:	

This is a decision on the petition filed May 25, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/26/2010

Applicant	: Cynthia C. Jara-Almonte	: DECISION ON REQUEST FOR
Patent Number	: 7607599	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/859,895	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAR 1 6 2005

OFFICE OF PETITIONS

In re Application of	:
Paul Ashton et al.	:
Application No. 10/859,902	: DECISION ACCORDING STATUS
Filed: June 3, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. CDSI-P02-032	:

This is in response to the petition filed March 4, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on June 3, 2004, naming Paul Ashton, Grazyna Cynkowska, Tadeusz Cynkowski and Thomas J. Smith as joint inventors but without a signed declaration. Accordingly, on August 2, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventors Ashton, Cynkowska and Cynkowski, the instant petition under 37 CFR 1.47(a) and a request for a five month extension of time was filed. The petition argues that joint inventor Smith refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Smith and that he has not returned an executed copy of the oath or declaration. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Please be advised that the fee for a petition under 37 CFR 1.47 is set at $200.00. As per the authorization found in the response, deposit account no. 18-1945 has been charged in the amount of $200.00. See 37 CFR 17(g).

This matter will be referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DR. THOMAS SMITH
AURITEC PHARMACEUTICALS
2275 E. FOOTHILL BLVD
PASADENA, CA 91107

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of
Paul Ashton et al.
Application No. 10/859,902
Filed: June 3, 2004
For: TREATMENT OF GENITOURINARY TRACT DISORDERS

Dear Dr. Smith:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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

Mail Date: 04/21/2010

Applicant	: Greg Sample	: DECISION ON REQUEST FOR
Patent Number	: 7594846	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/859,908	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1406** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Greg Sample
Patent Number : 7594846
Issue Date : 09/29/2009
Application No : 10/859,908
Filed : 06/02/2004

: 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 **1441** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
RIGNEY, et al.	:	
Application No. 10/859,916	:	DECISION ON PETITION
Filed: June 02, 2004	:	TO WITHDRAW
Attorney Docket No. 3123-575	:	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 06, 2006 and subsequently filed September 11, 2006.

The request is **APPROVED**.

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

The request was signed by Tejpal S. Hansra on behalf of all attorneys of record who are associated with Customer No. 32093. All attorneys/agents associated with the Customer No. 32093 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: BRIAN RIGNEY
823 SPYGLASS CIRCLE
LOUISVILLE, CO 80027

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/859,916	06/02/2004	Brian Rigney	3123-575

CONFIRMATION NO. 6915

OC000000021429121

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 11/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2006.

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

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED
JAN 27 2010

In re Application of	:	
Richard N. Frost	:	
Application No. 10/859,926	:	DECISION ON PETITION
Filed: June 2, 2004	:	TO WITHDRAW FROM
Attorney Docket No. RE3W.021A	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed November 10, 2009.

The request is **APPROVED**.

The request was signed by Ted M. Cannon on behalf of himself and all attorneys/agents associated with Customer Number 20995. Therefore, Ted M. Cannon and all the attorneys/agents associated with Customer Number 20995 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed December 3, 2009 that requires a reply from the applicant.

All future communications from the Office will be directed to the sole inventor at the address listed below until otherwise properly notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Richard Frost
RE3W Inc.
P.O. Box 3009
Newport Beach, CA 92659

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COMMISSIONER FOR PATENTS
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Paper No.

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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In re Application of	:	
Anastas et al.	:	
Application No. 10/859,930	:	ON APPLICATION FOR
Filed: June 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. IMMI56	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed November 19, 2008. Applicant requests that the determination of patent term adjustment be corrected from six hundred nine (609) days to one thousand two hundred forty-eight (1248) days less the number of days attributable to the filing of the rule 312 amendment prior to payment of the issue fee. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

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

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

Telephone inquiries specific to this decision should be directed to 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
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Paper No.

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,477,237	:	
Anastas et al.	:	DECISION ON REQUEST
Issue Date: January 13, 2009	:	FOR
Application No. 10/859,930	:	RECONSIDERATION OF
Filed: June 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. IMM156	:	

This is in response to the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed March 12, 2009. Patentees assert that the patent term adjustment indicated on the patent should be corrected from five hundred eighty-two (582) days to one thousand one hundred seventy-two (1,172) days.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

On January 13, 2009, the above-identified application matured into U.S. Patent No. 7,477,237, with a revised Patent Term Adjustment of 582 days. The request for reconsideration filed March 12, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that a credit of 590 days is due under §1.702(b) and is due to the PTO's failure to issue a patent within three years of the filing date.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b) and implementing regulation 37 CFR 1.702(b), the patent term is to be adjusted for failure to issue a patent within three years of the actual

filing date of the application.[1] In this instance, the patent issued three years and 590 days after its filing date, and there were no periods excluded pursuant to 35 U.S.C. 154(b)(1)(B)(i)-(iii) and 37 CFR 1.702(b)(1)-(4). However, entry of an additional adjustment for Office delay is limited by 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f).

35 U.S.C. 154(b)(2)(A) provides the following limitation:

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

As further provided in 37 CFR 1.703(f):

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of

---

[1] 37 CFR 1.702 (b) provides that: Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

Further, 37 CFR 1.703(b) provides that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of …
(the excluded periods).

> this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

Pursuant to 35 USC 154(b)(2)(A) and 37 CFR 1.703(f), any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. The Office has explained that in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 1284 OG 109 (July 13, 2004); 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, other than the 645-day delay in issuing the first Office action, there were no Office delays during the pendency of this application. The Office did not delay 645 days and then an additional 590 days. Given the 645-day delay, and the undisputed 63 days of applicant delay and time allowed for processing and examination, the patent issued three years and 590 days after the application filing date. 645 days is the actual number of days the issuance of the patent was delayed by the Office. All of the 590 days pursuant to §1.702(b) overlap with the 645 days accorded pursuant to §1.702(a)(1), and thus, no additional periods of adjustment were entered for Office delay in issuing the patent pursuant to §1.702(b).

In view thereof, the patent term adjustment remains 582 (645 - 63) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on application for patent term adjustment filed November 19, 2008. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FROM DIRECTORS OFFICE

DEC 0 2 2004

TECHNOLOGY CENTER 3600

Richard Selman
884 Lower Page Road
Smelterville, ID 83868

In re application of	:	**DECISION ON PETITION**
Richard Selman	:	**TO MAKE SPECIAL**
Application No. 10/859,943	:	**(HEALTH)**
Filed: June 4, 2004	:	**OR**
For: LANDPLANE TO FLYING BOAT CONVERSION		**(ENVIRONMENTAL QUALITY)**

This is a decision on the petition submitted on June 4, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health, or in the alternative, 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. There is no fee required for either petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence, such as a doctor's certificate or other medical certificate, that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

Applicant has not provided the appropriate evidence, such as a doctor's certificate or other medical certificate, that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

For the reason stated above, the petition to make special based on Applicant's Health is hereby **DISMISSED.**

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, Richard Selman. Mr. Selman states that "(t)he invention of the above application will materially enhance the air quality of urban areas by reducing (the) number of deliveries downtown. Flying boats can arrive at major harbors and less road traffic will result."

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. Selman'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-air. While it may be that Mr. Selman's invention will "materially enhance the air quality of urban areas by reducing (the) number of deliveries downtown", 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.

Randolph A. Reese

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

RAR/rwg: 11/10/04

IFW

OIPE IAP65
JAN 17 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

CHANTELOUP et al. Examiner: RAHMANI, Niloofar

Serial No.: 10/859,953 Group Art Unit: 1625

Filed: June 4, 2004

Title: INTERMEDIATES FOR THE HEMISYNTHESIS OF TAXANES AND PREPARATION PROCESSES THEREFOR

REPLY

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The declaration submitted is missing the last inventor's signature.

Attached is a decision on Petition from the first parent application granting the acceptance of the application without the signature of the non-signing inventor. A copy of the declaration in support of the petition which was granted is also attached.

Respectfully submitted,

Csaba Henter, Reg. No. 50,908
Attorney/Agents for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410
Attorney Docket No.: HIRSCH-0018-D02

Date: January 17, 2007

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

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FINNEGAN, HENDERSON, FARABOW,
GARRETT AND DUNNER, LLP

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I Street, NW
Washington, D.C. 20005-3315

In re Application of
CHANTELOUP, Luc et al
Application No.: 09/065,041
PCT No.: PCT/FR96/01676
Int. Filing Date: 25 October 1996
Priority Date Claimed: 27 October 1995
Attorney Docket No.: 03806.0424
For: INTERMEDIARY COMPOUNDS FOR THE HEMISYNTHESIS OF ...

DECISION ON

RENEWED REQUEST

UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed 29 March 1999, requesting that the above-captioned application be allowed without the signature of one of the inventors, Jean-Pierre Robin.

BACKGROUND

On 28 January 1999, applicants were notified that their "Petition Filed Pursuant to 37 C.F.R. §1.47(a)" was dismissed because the petition did not set forth evidence that Mr. Le Pennec had any firsthand knowledge of the facts declared, nor does it demonstrate that Mr. Robin was presented with a complete copy of the application papers.

On 22 January 1999, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration by Francoise Grenet, Director of Séripharm S.A., Technopole Université.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite petition fee required by 37 CFR 1.17(i); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known

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address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicants had previously satisfied items (1), (3) and (4) with their first petition.

Section 409.03(d), *Proof of Unavailability or Refusal*, of the Manual for Patent Examining Procedure states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. . . .
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. . . . Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Regarding item (2), in the renewed petition, Mr. Grenet, the Director of Sérípharm S.A., Technopole Université claims that he "received the application papers, including the specification, Declaration and Power of Attorney, and Assignment, from Rhône-Poulenc Rohrer S.A. for signing by the named inventors." Grenet Decl. ¶ 6. Later, Mr. Grenet states that at a meeting with Mr. Robin, "I requested that he sign the application papers. Mr. Robin reviewed the application papers and informed me that he had made up his mind not to sign the application papers. Mr. Robin explained to me that his refusal was because of complex business difficulties between his company, Paclipharm, and Sérípharm . . ." Grenet Decl. ¶ 9.

The declaration of Mr. Grenet lists all the facts and circumstances of Mr. Robin's refusal to sign the application and his reasons for the refusal. It also claims that Mr. Robin was presented with a complete copy of the application papers to review. Applicants' evidence satisfies item (2).

Accordingly, all requirements under 37 CFR 1.47(a) have been satisfied.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c).

The application has an international filing date of 25 October 1996 under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of 27 April 1998.

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As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the DO/EO/US for continued processing including issuance of a NOTIFICATION OF ACCEPTANCE (Form PCT/DO/EO/903) and filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
Petitions Attorney
PCT Legal Office

JT/RC:jt

Tel: (703) 308-6457
Fax: (703) 308-6459

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OIPE IAP65
JAN 17 2007
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 03806.0424

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Luc CHANTELOUP et al.

Serial No.: 09/065,041

Filed: April 27, 1998

For: INTERMEDIATES FOR THE HEMISYNTHESIS OF TAXANES AND PREPARATION PROCESSES THEREFOR

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

DECLARATION IN SUPPORT OF FILING ON
BEHALF OF OMITTED INVENTOR UNDER 37 C.F.R. § 1.47(a)

1. I, François GRENET, Director of Sériparm S.A., Technopole Université, 1, rue Démocrite, 72000 Le Mans, FRANCE, do hereby declare and say that:

2. This declaration describes the diligent and *bona fide* efforts made to secure the execution of the Declaration and Power of Attorney and Assignment for the above-identified application by inventor Jean-Pierre Robin, and Mr. Robin's refusal.

3. I have first-hand knowledge of the facts set forth in this declaration.

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4. Mr. Robin is one of the named inventors of the above-identified application. The other named inventors are Luc Chanteloup, Bruno Chauveau, Christine Corbin, Robert Dhal, Sonia Le Guen, Arnaud Lamy, and Antoine Leze.

5. Mr. Robin's last known address is 28, rue Sainte-Croix, 72000 Le Mans, FRANCE. Mr. Robin is currently employed at Paclipharm, 24, avenue Olivier Messiaen, 72000 Le Mans, FRANCE.

6. I received the application papers, including the specification, Declaration and Power of Attorney, and Assignment, from Rhône-Poulenc Rohrer S.A. for signing by the named inventors. The application papers were due to be filed in the United States by April 27, 1998 in order to maintain priority to the PCT application.

7. On or about March 16, 1998, I personally presented or mailed the application papers for their signatures to the named inventors besides Mr. Robin. Luc Chanteloup, Bruno Chauveau, Christine Corbin, Robert Dhal, Sonia Le Guen, Arnaud Lamy, and Antoine Leze duly executed the application papers. This group did not include Mr. Robin, who at that time was employed at Paclipharm.

8. Shortly thereafter, I called Mr. Robin at Paclipharm to make an appointment with Mr. Robin to execute the application papers.

9. Some days after my call to Mr. Robin, we met. During this meeting, I requested that he sign the application papers. Mr. Robin reviewed the application papers and informed me that he had made up his mind not to sign the application

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papers. Mr. Robin explained to me that his refusal was because of complex business difficulties between his company, Paclipharm, and Sératharm, which is a wholly-owned subsidiary of Rhône-Poulenc Rorer, S.A., the assignee of the above-identified application. Mr. Robin further stated that he did not believe that his position would affect the ability to proceed with the international filing of the patent application.

10. I concluded from the events described above that Mr. Robin's conduct, after our diligent and *bona fide* efforts, constituted a refusal to execute the Assignment and Declaration and Power of Attorney.

11. All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date: 25 March 1999

François GRENET
Director
Sératharm S.A.
1, rue Démocrite
72000 Le Mans
FRANCE

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Mitsuoka, et al.
Application No. 10/859,986
Filed: 4 June 2004

For: STORAGE DEVICE

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

This is a decision on the petition filed 23 June 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 **DISMISSED**.

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

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

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

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

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

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

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

The petition filed 23 June 2005 fails to adequately meet requirements (b) and (e) set forth supra.

With respect to section (b) as provided above, the petition does not contain the required stipulation that "an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention". Although the Application currently contains 1 independent claim and 9 dependent claims, a restriction could be made that would require an election, and thus, Applicant must stipulate to the foregoing in the petition.

With respect to section (e), the discussion does not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references. Applicant must bring out the specific feature that defines the claimed invention as set forth in claim 1, the independent claim, in order to properly discuss/juxtapose the same with relevant details from each of the references. Section (e) explicitly mandates that the "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 petition, however, does not distinctly identify the claim component that distinguishes the claimed invention from the referenced prior art.

Applicant's claim treatment in the discussion does not illuminate the patentable element in the claimed subject matter. The petition simply recites the bulk of claim 1, without clearly expressing the discrete/limited feature that constitutes the patentable subject matter. This recitation lacks the specificity necessary to point out, with particularity, the patentable basis of the independent claim, relative to the prior art teachings in each reference.

In the detailed discussion, the petition must show, for each independent-claim, specific language that defines a particular feature distinguishable over each given reference in order to specify "how the claimed subject matter is patentable over the references."

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

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

Brian L. Johnson
Special Program Examiner 571-272-3595
Technology Center 2100

GO

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
MITSUOKA et al.
Application No. 10/859,986
Filed: June 4, 2004
For: STORAGE DEVICE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on September 06, 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 September 06, 2005 meets all the criteria set out above.

Accordingly, the petition is **GRANTED**. The application 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
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www.uspto.gov

Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Chien
Application No. 10/860,003
Filed: June 4, 2004
Attorney Docket No. 7015.105

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on December 24, 2009 and supplemented on March 23, 2010, to revive the above-identified application.

The application became abandoned for failure to timely pay the publication fee on or before February 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 8, 2007.

Petitioner has submitted a proper reply to the November 7, 2006 Notice in the form of the issue fee, publication fee, and completed PTOL-85(b), an acceptable statement of the unintentional nature of the delay in responding to the November 7, 2006 Notice, and the petition fee.

Regarding the statement of the nature of the delay: It is not apparent whether the attorney 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.

All requirements under 37 CFR 1.137(b) being met, the petition is **GRANTED**.

The Revocation of Power of Attorney and Appointment of New Attorney, filed December 24, 2009, has been entered and made of record. Please find enclosed a Notice of Acceptance of Power of Attorney. The former attorney of record is being mailed an appropriate notification, as well.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/860,003	06/04/2004	Chun-Jen Chien	BHT-3193-8

CONFIRMATION NO. 7580

POA ACCEPTANCE LETTER

91395
Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman, VA 22971

OC000000041615497

Date Mailed: 05/14/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/24/2009.

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

/swbrantley/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **February 22, 2008**

TO SPE OF : ART UNIT **2826**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/860093** Patent No.: **7282739 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

[redacted]

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: _____

_____

_____

_____

_____

/ Sue Purvis/	**2826**
SPE	**Art Unit**

PAGE 2/2 * RCVD AT 2/28/2008 11:10:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-4/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED
DEC 1 8 2006
OFFICE OF PETITIONS

In re Application	:	
Bull Lau	:	
Application No. 10/860,102	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. P/3987-54	:	
For: BRASSIERE AND MOULDED BREAST CUP CONSTRUCTION THEREFOR AND RELATED METHOD OF MANUFACTURE		

This is a decision on the petition under 37 CFR 1.182, filed August 25, 2006, to correct the name of the sole inventor.

The petition is **DISMISSED**.

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. Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.

A review of the application file reveals that the issue fee was filed on July 5, 2006. The present petition was filed on August 25, 2006. Because the petition to change the name of the inventor was filed after payment of the issue fee, it must be dismissed.

The file is being returned to Publishing Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JUL 07 2008
OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,166,012	:
Issue Date: January 23, 2007	:
Application No. 10/860,102	:
Filed: June 3, 2004	:
Attorney Docket No. P/3987-54	:

This decision addresses the renewed petition under 37 CFR 1.182 to correct the sole inventor's name via a certificate of correction.

Petitioner has renewed the request to correct the inventor's name from Bull Lau to **Zhen Qiang Liu** and filed a request for a certificate of correction accompanied by the required fee of $100.

The request is **GRANTED**.

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 16 2007

OFFICE OF PETITIONS

JACK Q. LEVER, JR.
MCDERMOTT, WILL & EMERY
600 THIRTEENTH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Emi Hayashi et al	:	
Application No. 10/860,111	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 60188-886	:	

This is a decision on the petition, filed February 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 December 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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JUN 06 2007

OFFICE OF PETITIONS

In re Application of	:
Emi Hayashi et al	:
Application No. 10/860,111	: DECISION GRANTING PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-886	:

This is a decision on the petition, filed June 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2827 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\june10\860111.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

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
JUN 0 7 2006
OFFICE OF PETITIONS

In re Application of :
Ejiri et al. :
Application No. 10/860,145 : ON PETITION
Filed: June 4, 2004 :
Title: System and Method for Displaying an Image Indicating a Positional Relation Between Partially Overlapping Images :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 11, 2006.

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

This application was held abandoned September 14, 2005 for failure to timely reply to the non-final Office Action mailed on June 13, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed March 13, 2006.

Petitioner asserts that a reply to the non-final Office Action was timely submitted on September 13, 2005. As evidence, petitioner has submitted a copy of the reply and a stamped postcard receipt. The post card receipt serves as prima facie evidence that a reply to the Office Action was received in the Office.

The response submitted September 13, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

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

The application file is being forwarded to Art Unit 2623 for further processing of the amendment.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/6/09**

TO SPE OF : ART UNIT **3636 (3600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/860,173** Patent No.: **7,421,824**

Attn: Milton Nelson Jr.

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 G. 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.

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

Comments: _____

DAVID DUNN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Arthi R. Ayyangar	: DECISION ON REQUEST FOR
Patent Number	: 7606235	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,183	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1057** 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
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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 05/17/2010

Applicant : Arthi R. Ayyangar
Patent Number : 7606235
Issue Date : 10/20/2009
Application No : 10/860,183
Filed : 06/03/2004

: 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 **1149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert M. Mason
Mason & Petruzzi
13601 Preston Rd., 402W
Dallas, TX 75240

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffery Roy Lowery, et. al.	:	
Application No. 10/860,190	:	ON PETITION
Filed: June 2, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed November 18, 2004.

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

The application file is being referred to Technology Center Art Unit 3711, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FROM DIRECTOR'S OFFICE

MAY 2 4 2007

TECHNOLOGY CENTER 3600

WALTER A. HACKLER, Ph.D.
Patent Law Office
Suite B
2372 S.E. Bristol Street
Newport Beach, CA 92660-0755

In re Application of
Peter J Balsells
Serial No: 10/860, 199
Filed: June 2, 2004
For: SPRING LATCHING CONNECTORS RADIALLY AND AXIALLY MOUNTED

: DECISION ON PETITION
: TO ENTER THE AMENDMENT
: AFTER FINAL UNDER
: 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181 filed November 10, 2005, to enter the October 11, 2005 amendment.

The petition is **DENIED**.

Applicant alleges that the October 11, 2005 amendment is entitled to entry as it is clearly limited to the previously presented claims and corresponding dependent claims have been cancelled.

MPEP 714.13 sets forth that if a proposed amendment after final presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search.

A review of the record reveals that a final rejection was mailed July 26, 2005 rejecting all the pending claims. Applicant filed an amendment after final October 11, 2005 amending claim 1 and canceling claim 3. The examiner mailed an Advisory Action October 27, 2005 refusing entry of the October 11, 2005 amendment because the proposed amendment raised new issues that would required further consideration and/or search, and was not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. The examiner set forth the explanation that "claim 1 previously made reference to disconnect and connect forces 'of said spring latching connector' in general. Claim 1 has now been amended to refer to disconnect and connect forces specifically 'between the spring and the housing'. Examiner also notes that claim 3 previously included the limitations of claims 1 and 2. In the after final amendment, however, claim 3 was rewritten in independent form excluding the limitations of claim 2."

The proposed claim 1 set forth in the October 11, 2005 amendment is not the same as previously presented claim 3 as alleged in the present petition. Proposed claim 1 does not include the limitations of previously presented claim 2 from which previously presented claim 3 depended as noted by the examiner in the October 27, 2005 advisory action. As further noted by the examiner, proposed claim 1 included the new limitation of the disconnect and connect forces "between the spring and the housing". Therefore proposed claim 1 as amended in the October 11, 2005 amendment after final sets forth a new combination of elements not previously presented and would require further consideration and/or search. The denial of entry of the October 11, 2005 amendment on this basis was proper.

Telephone inquiries relative to this decision should be directed to Supervisory Patent Examiner Charles Marmor at (571) 272-7095.

SUMMARY: The petition is **DENIED**.

Katherine Matecki, ACTING

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

cm/snm: 5/22/07

SM

UNITED STATES PATENT AND TRADEMARK OFFICE

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WALTER A. HACKLER, Ph.D.
PATENT LAW OFFICE
SUITE B
2372 S.E. BRISTOL STREET
NEWPORT BEACH CA 92660-0755

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DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of
Peter J. Balsells
Application No. 10/860,199
Filed: June 2, 2004
Attorney Docket No. 3058

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the Notification of Non-Compliant Appeal Brief (37CFR 41.37) of February 11, 2008. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 12, 2005.

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

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

This application is being referred to Technology Center AU 3683 for further processing.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
William Robert Haas, et al. :
Application No. 10/860,202 : ON PETITION
Filed: June 3, 2004 :
Attorney Docket No. 200206650-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 2, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions

of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 3, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition the RCE is not considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

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

This application is being referred to Technology Center AU 2625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theodore Wayne Daw
P.O. Box 865
Eagle Point, OR 97524

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Theodore Wayne Daw	:	
Application No.: 10/860212	:	DECISION ON
Filing or 371(c) Date: 11/22/2004	:	PETITION
Title of Invention: DAW STEAM CELL	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed October 27, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed November 22, 2005. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on February 6, 2006; however, the reply did not include any extensions of time.

No timely and proper reply having been received, the application became abandoned on December 23, 2005. A Notice of Abandonment was mailed September 25, 2006.

Applicant files the instant petition to revive the Application. The reply was filed February 6, 2006. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 3742 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
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

Bernard A. Nadel
PO Box 499
Irvington, VA 22480

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AUG 14 2006
OFFICE OF PETITIONS

In re Application of :
Nadel : DECISION ON PETITION
Application No. 10/860,215 :
Filed: June 4, 2004 :
For: HYDRO-GENERATOR :

The above-identified application has been referred to the Office of Petitions for consideration of the communication submitted June 21, 2006. This matter is being generally treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.181 or 1.137, whichever is deemed appropriate by petitioner. This is not a final agency decision.

This application became abandoned December 14, 2005 for failure to timely submit a proper reply to the non-final Office action mailed September 13, 2005. The non-final Office action set a three-month statutory period of time for reply. A reply was submitted December 29, 2005, however, said reply lacked the required extension of time. Notice of Abandonment was mailed April 18, 2006.

Petitioner sets forth that it was not his intention to abandon the above-referenced application for patent. Petitioner acknowledges that the reply to the non-final Office action was untimely submitted.

Petitioner, however, has advanced no argument to justify the untimely submission nor has petitioner provided any explanation for why the reply lacked the required petition for extension of time (and fee).

Accordingly, at present, the instant petition must remain abandoned.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply. See enclosed.

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

The current small entity petition to revive for unintentional delay fee is $750.00.

It would appear that to date, a petition fee in the amount of $200.00 has been submitted. There is no fee due under the provisions of 37 CFR 1.181. Thus, this fee is unnecessary. However, petitioner may request to have the previously submitted petition fee of $200.00 put towards the petition fee required under 37 CFR 1.137.

If petitioner elects not to file a petition under 37 CFR 1.137, petitioner may request a refund of the previously submitted fee of $200.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

An examination of the instant petition reveals that petitioner is unfamiliar with patent petition procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Petitioner may wish to consider

securing the services of a registered patent attorney or agent, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent. A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64 (including USPTO Privacy Statement)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of
Gilbert Ross, et al.
Application No. 10/860,229
Filed: June 3, 2004
Attorney Docket No. S1177/20079

ON PETITION

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

The petition is **DISMISSED**.

The application was filed on June 3, 2004, including an Application Data Sheet containing the names and addresses of all the inventors. On August 2, 2004, a Notice to File Missing Parts was mailed, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). Since no response was filed, a Notice of Abandonment was mailed on April 20, 2005. On June 1, 2005 the present petition was filed.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The petition does not include the required reply.

It is noted that the petition included a declaration and the requisite surcharge. However, the declaration is not in compliance with 37 CFR 1.63 and 1.64. The declaration filed June 1, 2005 consists of 3 pages. Each page includes a signature block for inventor one; however, the name of

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

"inventor one" is different on each page. Given the format of the declaration, it is unclear whether all inventors were presented with a declaration naming all of the actual inventors in compliance with §§ 1.63 and 1.64. Accordingly, it is concluded that the declaration filed with the petition on June 1, 2005, is not acceptable

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)," and included the required reply.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Gilbert Ross, et al.
Application No. 10/860,229
Filed: June 3, 2004
Attorney Docket No. S1177/20079

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 7, 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 August 2, 2004, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed April 20, 2005. On June 1, 2005, a petition to revive was filed; however, the petition was dismissed in a decision mailed October 6, 2005. In response, on November 7, 2005 the present petition was filed. The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed November 7, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

February 13, 2007

Jeffrey W. Salmon
WELSH & KATZ, LTD.
120 South Riverside Plaza, 22nd Floor
Chicago, IL 60606

Patent No: 7134187 B2
Application No: 10/860240
Applicant: Chien-Hung Liu, et al.
Issued: November 14, 2006
Title: **METHOD FOR MAKING AN INKJET-HEAD CHIP STRUCTURE**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Assignee's addresses are printed in accordance with the PTOL-85-B (the Issue Fee Transmittal), and in accordance with the present style for printing. Since, only the city or another political unit (if no city is indicated) and either the state or the country, are printed in the printed patent, if the patent has an assignee. Therefore, no correction is in order here

In view of the foregoing your request in these matters are hereby **denied**.

Further correspondence should be directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Fuminori Asa	: DECISION ON REQUEST FOR
Patent Number	: 7596425	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,267	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1154** 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

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TECHNOLOGY CENTER 2100

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

In re Application of: NAKATANI, et al.
Application No. 10/860,319
Filed: June 4, 2004
For: INTER-SERVER DYNAMIC TRANSFER METHOD FOR VIRTUAL FILE SERVERS

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

This is a response to the petition filed 02 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/860,325	06/04/2004	Toshiyuki Wada	520.43926X00	1393

20457 7590 04/29/2008
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER
JACKSON, BLANE J

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

DECISION ON PETITION UNDER 37 C.F.R. §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed 08/24/07 under 37 C.F.R. §1.97(d) for consideration of an information disclosure statement filed after [✓] Allowance [ ] Final has been:

[✓] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee, see 37 C.F.R. §1.97(d)(2).

The petition lacks:
[ ] The required fee under 37 C.F.R. §§1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 C.F.R. §§1.97(d) and 1.97(e).

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

Blair J. [illegible]
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

WESTERN DIGITAL TECHNOLOGIES, INC.
20511 LAKE FOREST DR. -C205
LAKE FOREST CA 92630

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Hanan Kupferman	:	
Application No. 10/860,330	:	DECISION ON PETITION
Filed: June 1, 2004	:	
Attorney Docket No. K35A1406	:	
	:	

This is a decision on the petition filed January 20, 2005, requesting that the above-identified application be accorded a filing date of June 1, 2004, instead of the present filing date of October 6, 2004.

On June 1, 2004, petitioner filed the above-identified application. On July 27, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the above-identified application had been accorded a filing date of June 1, 2004, and that Figures 1A and 1B appeared to have been omitted.

Petitioner stated that upon receiving the Notice, petitioner chose to exercise Option III stated in the Notice and did not file a petition within two months. Thus, petitioner constructively accepted the application as filed without Figures 1A and 1B, as well as maintained the filing date of June 1, 2004.

On October 6, 2004, petitioner filed a preliminary amendment renaming Figure 1 to Figure 1A and adding new Figure 1B. Additionally, petitioner submitted 2 drawing sheets (Fig. 1A and Fig. 1B).

Thereafter, the Office of Initial Patent Examination accorded the application a filing date of October 6, 2004, the date the omitted Figures were received by the Office.

Obviously, petitioner intended to amend the application to include Figures 1A and 1B. The application should have retained

the original filing date of June 1, 2004, and the matter should have been referred to the examiner to review the preliminary amendment.

Accordingly, the record supports petitioner's assertion that the Office erroneously changed the application filing date to October 6, 2004. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The Office of Initial Patent Examination is directed to correct the filing date to June 1, 2004, using only the drawing sheets submitted on that date, and to mail a corrected filing receipt. Figures 1A and 1B will not be entered at this time.

Thereafter, the matter should be referred to Technology Center Art Unit 2651 for the examiner to review the amendment submitted on October 6, 2004.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 24 2009

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,556,746	:	
Sen, et al.	:	DECISION ON
Issue Date: July 7, 2009	:	REQUEST FOR
Application No. 10/860,331	:	RECONSIDERATION OF
Filed: June 3, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 112020.180	:	
NAN-57 US1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.702 - 1.705," filed September 7, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred eighty-nine (389) days to six hundred sixty-seven (667) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 7, 2009, the above-identified application matured into U.S. Patent No. 7,556,746 with a patent term adjustment of 389 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees assert entitlement to a patent term adjustment of 667 days (579 + 278 reduced by 0 overlap - 190 (applicant delay)).

As of the filing of the RCE on March 7, 2008, the application was pending three years and 277 days after the filing date of this application. The Office agrees that a certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 579 days for Office delay is

correct. At issue is whether Patentees should accrue 277 days of patent term adjustment for the Office taking in excess of three years to issue the patent (June 4, 2007 to March 6, 2008, the day before the date the RCE was filed), as well as 579 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 277-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years

> after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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).

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

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, beginning on the application filing date under 35 U.S.C. 111(a), June 3, 2004, and ending on the date before the filing of a request for continued examination (RCE), March 6, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)((i)- (iii)). 579 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application.

All of the 277 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 579 days attributable to the ground specified in 37 C.F.R. § 1.702(a)(1) (no days were accorded subsequent to the filing of the RCE). Entry of both the 277 days and the 579 days is neither permitted nor warranted. 579 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 for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 389 days. No adjustment to the patent term will be made.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Kimberly-Clark Worldwide, Inc.
401 North Lake Street
Neenah, WI 54956

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FEB 06 2007

TECHNOLOGY CENTER 3600

In re Application of:
Gao, Hongxia, et.al.
Application No.10/860,357
Filed: June 2, 2004
Attorney Docket No 19,764

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Patrick Mackey, at (571)-272-6916.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

David Bagnell, Acting Director
Technology Center 3600

cc: Office of Patent Publication

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DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1957

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of

Mikhail Godkin. :

Application No. 10/860,361

: DECISION ON PETITION

Filed: June 2, 2004

:

Attorney Docket No. 351999-991610

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed September 8, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 9, 2006. A Notice of Abandonment was mailed March 26, 2007.

Examiner Burton Mullins has determined that the amendment filed July 26, 2007, places the application in condition for allowance.

The request for an extension of time within the third month, filed July 26, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $1590.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2834 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RESTON VA 20191

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tetsuzo Ueda :
Application No. 10/860,394 :
Filed: June 4, 2004 :
Attorney Docket No. P25426 :

This is a decision on the petition, filed December 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Greg Goshorn, P.C.
9600 Escarpment
Suite 745-9
AUSTIN, TX 78749

Mail Date: 04/21/2010

Applicant	: Andrew S. Clement	: DECISION ON REQUEST FOR
Patent Number	: 7665076	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **686** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: Richard D. Dettinger	: DECISION ON REQUEST FOR
Patent Number	: 7606791	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,417	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 05/17/2010

Applicant : Richard D. Dettinger
Patent Number : 7606791
Issue Date : 10/20/2009
Application No : 10/860,417
Filed : 06/03/2004

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

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

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

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

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of :
Sen et al. :
Application No. 10/860,433 :
Filed: June 3, 2004 :
Attorney Docket No. 112020.169 :
NAN-44 US1 :
Title: Applicator Liquid :
Containing Ethyl Lactate For :
Preparation of Nanotube Films :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705" filed July 29, 2009. This petition is properly treated under 37 C.F.R. §1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred thirty-four (634) days, not one hundred fifty-seven (157) 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 address provided on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address given on the petition However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

Cc: Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022

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In re Application of
Erne Plessala
Application No. 10/860,444
Filed: June 3, 2004
Attorney Docket Number: P04-1024
Title of Invention: Furrow Cleaner Apparatus

ON PETITION

This is a decision on the petition filed March 21, 2006, under 37 CFR 1.137(a) to revive the above-identified application. Petitioner also filed a petition under 37 CFR 1.137(b) on June 5, 2006.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on August 24, 2005 and set a three (3) month shortened statutory period for reply. On September 15, 2005 a notice resetting the time period for reply was mailed. An amendment and two month extension of time were submitted on January 24, 2006. An advisory action was mailed on March 9, 2006 indicating that the amendment did not place the application in condition for allowance. Accordingly, this application became abandoned on February 25, 2006. This decision precedes the mailing of a Notice of Abandonment.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> delay in filing the

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner asserts the application was unavoidably delayed because petitioner did not receive the Advisory Action which was mailed on February 15, 2005. Petitioner states that recovery from the Hurricane has caused delay in receipt of mail.

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[2]See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner's arguments have been considered but they are not persuasive. 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). See MPEP 711.03(c). The failure to receive the Advisory Action would not warrant granting a petition under the unavoidable standard.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Accordingly, petitioner has failed to provide sufficient arguments and evidence that warrant the finding of unavoidable delay within the meaning of 37 CFR 1.137(a). Further petitioner has failed to establish the facts presented require the abandonment of the application to be withdrawn.

Alternative Venue

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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.

This application is being referred to Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LIVERMORE, CA 94550

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OFFICE OF PETITIONS

In re Application of
Radu H. Iacob, Sorin S. Georgescu and Charles Frank Wojslaw
Application No. 10/860,476
Filed: June 2, 2004
Title: DIGITAL POTENTIOMETER WITH RESISTOR BINARY WEIGHTING DECODING

: DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 24, 2004.

The petition is **granted**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TONI W. WOJSLAW
LEGAL REPRESENTATIVE/EXECUTER OF THE ESTATE FOR
CHARLES FRANK WOJSLAW (DECEASED)
13165 MOSS ROCK DRIVE
AUBURN, CA 95602

COPY MAILED

OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of
Radu H. Iacob, Sorin S. Georgescu and Charles Frank Wojslaw
Application No. 10/860,476
Filed: June 2, 2004
Title: DIGITAL POTENTIOMETER WITH RESISTOR BINARY WEIGHTING DECODING

CHARLES FRANK WOJSLAW is 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 CHARLES FRANK WOJSLAW will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at(703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of ARAI et al	:	
Application No.: 10/860,498	:	DECISION ON PETITION
Filing Date: June 4, 2004	:	FOR ACCELERATED
For: DISK ARRAY INCLUDING PLURAL	:	EXAMINATION UNDER
EXCHANGABLE MAGNETIC DISK	:	M.P.E.P. §708.02(VIII)
UNIT	:	

This is a decision on the petition filed December 15, 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 15, 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

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POLSINELLI SHALTON WELTE SUELTHAUS P.C.
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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NOV 22 2006
OFFICE OF PETITIONS

Applicant: Li
Appl. No.: 10/860,501
Filing Date: June 3, 2004
Title: BMP PATHWAY METHODS AND COMPOSITIONS
Attorney Docket No.: 64991
Pub. No.: US 2005/0271638 A1
Pub. Date: December 8, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 9, 2006, for the above-identified application.

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors in claims 5, 65 and 87.

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

The instant request identifies a material mistake by the Office with respect to the claim 5, wherein "pBI101" is misprinted as "pBI110". The request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The other errors noted by requestor in this published application are due to the poor quality of the text in the application. The text in the formulas is the superscripts is very small and not clear. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. While the text is legible, the text is not clear, which makes it difficult to electronically reproduce by digital imaging and optical character recognition.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 571-273-8300

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of
Dietz, et al.
Application No. 10/860,511
Filed: June 3, 2004
Attorney Docket No. 25040.1170
For: ENGAGEMENT OF NON-EMPLOYEE WORKERS

LETTER

This letter is in response to the petition under 37 CFR 1.47(a) filed on August 12, 2004.

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioners have submitted a copy of the executed oath or declaration filed in Application No. 09/312,120. Application No. 09/312,120 is a grandparent application of the instant filing. Furthermore, petitioners have submitted a copy of the decision, mailed on July 21, 2000, granting a petition to accord § 1.47 status to the prior 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. No fee has been or will be charged in connection with this matter.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the prior application has already been sent to the non-signing inventor.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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DEC 27 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey Daniel Daily and :
Shannon Lee Vanscoy : DECISION GRANTING PETITION
Application No. 10/860,512 : UNDER 37 CFR 1.47(a)
Filed: June 3, 2004 :
Title: RECYCLABLE CARPET
COMPRISING HOT MELT ADHESIVE
COMPOSITION

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 2, 2004.

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 1700 for examination *in due course*.

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

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

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SHANNON LEE VANSCOY
P.O. BOX 761
CHATSWORTH, GA 30705

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DEC 27 2004

OFFICE OF PETITIONS

In re Application of
Jeffrey Daniel Daily and Shannon Lee Vanscoy
Application No. 10/860,512
Filed: June 3, 2004
Title: RECYCLABLE CARPET COMPRISING HOT MELT ADHESIVE COMPOSITION

Dear SHANNON LEE VANSCOY:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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Armstrong Teasdale LLP (12553 - 1000)
Patrick W. Rasche
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS MO 63102-2740

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MAY 2 0 2009

OFFICE OF PETITIONS

In re Application of :
Thangamani, et al. :
Application No. 10/860,516 :
Filed: June 3, 2004 :
Attorney Docket No. 150381 (12553-404) :
For: METHOD AND SYSTEM FOR THERMAL CONTROL IN X-RAY IMAGING TUBES

ON PETITION

This is a decision on the petition, filed May 6, 2009, under 37 CFR 1.47(a). The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.[1]

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **DISMISSED**.

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

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 1.183 to waive 37 CFR 1.63 and 1.67" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. Therefore, a grantable petition 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),

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

(3) a petition fee, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1).

With respect to item (1), applicant has failed to establish that the non-signing inventor, Jayaprakash Ramakrishna, has refused to execute the supplemental declaration or cannot be located. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Petitioner has not demonstrated that all efforts were expended in trying to locate Mr. Ramakrishna. The statement of facts by William J. Zychlewicz states that Renju Harikumar attempted to contact Mr. Ramakrishna at his mobile phone number, which turned out to be an invalid number, and sent a courier to the last known address of Mr. Ramakrishna, but no reply was received at his home.

As a preliminary matter, Mr. Zychlewicz does not appear to have first hand knowledge of much of the events discussed in the statement of facts. It appears that Mr. Harikumar is the individual who attempted to contact Mr. Ramakrishna. The Office would like Mr. Harikumar's statement regarding his efforts to obtain Mr. Ramakrishna's signature on the declaration. The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d)

Petitioner is informed that the fact that no reply was received when a courier attempted to deliver a package establishes neither diligence in trying to find the non-signing inventor, nor the inventor's refusal by conduct to join in the filing of the application. Mr. Ramakrishna may have been on vacation. It is unclear exactly what transpired with the attempted courier delivery without a statement from Mr. Harikumar.

Another copy of the application should be mailed to Mr. Ramakrishna's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Ramakrishna's new address, return receipt requested, along with a cover letter of instructions which includes 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.

Other attempts to reach Mr. Ramakrishna should be made. If the re-mailed papers are returned, and other attempts to locate the inventor, e.g. through e-mail, computer searches (such as LEXIS), searches of regional or national registries, or telephone searches, fail, then applicant will establish that the inventor cannot be reached. *Documentary evidence* that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records of Internet searches would suffice. *See* MPEP 409.03(d).

If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted.

Regarding fees, petitioner submitted $200.00. The current Rule 183 petition fee is $400.00. Accordingly, deposit account no. 01-2384 will be charged the $200.00 balance due.

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

By mail:

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

By hand:

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Armstrong Teasdale LLP (12553 - 1000)
Patrick W. Rasche
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS MO 63102-2740

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SEP 24 2009

OFFICE OF PETITIONS

In re Application of :
Thangamani, et al. :
Application No. 10/860,516 :
Filed: June 3, 2004 :
Attorney Docket No. 150381 (12553-404) :
For: METHOD AND SYSTEM FOR THERMAL CONTROL IN X-RAY IMAGING TUBES

ON PETITION

This is a decision on the renewed petition, filed June 22, 2009, which will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

The previously non-signing inventor, Jayaprakash Ramakrishna, has been located and has executed the supplemental declaration. Both joint inventors have executed the supplemental declaration. Therefore, the petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 **DISMISSED AS MOOT**.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :06/07/07

Patent No. : 7206915 B2
Ser. No. : 10/860,523
Inventor(s) : DESOUTER, MARC A.
Issued : 04/17/07
Title : **VIRTUAL SPACE MANAGER FOR COMPUTER HAVING A PHYSICAL ADDRESS EXTENSION FEATURE**
Docket No. : 10830.0111.NPUS00

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

RICHARD AUCHTERLONIE
NOVAK DRUCE & QUIGG, LLP
1000 LOUISIANA
53RD FLOOR
HOUSTON TX 77002

LMN

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RICHARD AUCHTERLONIE
NOVAK DRUCE & QUIGG, LLP
1000 LOUISIANA
53RD FLOOR
HOUSTON TX 77002

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OCT 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,206,915	:	
Issue Date: April 17, 2007	:	
Application No. 10/860,523	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 10830.0111.NPUS00	:	

This is a decision on the petition filed July 6, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
P.O. Box 1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Kelly et al.	:	
Application No. 10/860,539	:	ON PETITION
Filed: June 2, 2004	:	
Attorney Docket No. 25343/37:34	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 4, 2008, to revive the above-identified application.

The petition 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 permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed April 5, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 6, 2007. A Notice of Abandonment was mailed October 24, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition does not lack any of the above items. However, although the Certificate of Mailing was signed, the petition itself was left unsigned. A duplicate copy of the petition should be submitted with the proper signature.

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 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

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED

MAY 23 2008

In re Application of	:	
Kelly et al.	:	
Application No. 10/860,539	:	DECISION ON PETITION
Filed: June 2, 2004	:	
Attorney Docket No. 25343/37:34	:	

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

The petition is **GRANTED**.

The renewed petition is now signed.

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

This matter is being referred to Technology Center 3661 for further examination on the merits.

Liana Walsh
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

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: John Kelly	: DECISION ON REQUEST FOR
Patent Number	: 7636623	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1312** 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

STOEL RIVES L.L.P.-S.L.C.
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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AUG 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kelly et al.	:	
Application No. 10/860,540	:	DECISION ON PETITION
Filed: June 2, 2004	:	
Attorney Docket No. 25343/37:33	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 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 June 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 20, 2007. A Notice of Abandonment was 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 an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Further, the Power of Attorney filed February 25, 2008 is hereby accepted. 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.

This application is being referred to Technology Center AU 3661 for appropriate action by the Examiner in the normal course of business on the reply received.

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
10/860,540	06/02/2004	John Kelly	ONSOO4.00

CONFIRMATION NO. 9089

POA ACCEPTANCE LETTER

32642
STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

OC000000031659842

Date Mailed: 08/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/25/2008.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: John Kelly	: DECISION ON REQUEST FOR
Patent Number	: 7617028	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,540	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 7/20/2010
Patent No.	: 7,670,831 B2
Serial No.	: 10/860,544
Inventor(s)	: Lee et al.
Issue Date	: May 2, 2010
Title	: **CONDUCTIVE CARBON NANOTUBES DOTTED WITH METAL AND METHOD FOR FABRICATING A BIOSENSOR USING THE SAME**
Doc./File No.	: **4240-110**

Re: Reconsideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error in column 28, line 6, comparison of the printed patent reveals that there is no column 28. Therefore, no correction is in order here.

In view of the foregoing, your request in this matter is hereby denied.

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH STREET, N.W.
SUITE 300
WASHINGTON, DC 20005-3960

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Claude Poncin et al	:	
Application No. 10/860,546	:	DECISION ON PETITION
Filed: April 4, 2004	:	TO WITHDRAW
Attorney Docket No. 503029/OVM	:	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 27, 2005 and supplemented on May 25, 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 Jeremy M. Jay on behalf of all attorneys of record who are associated with Customer No. 23548

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 and an intervening assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Claude Poncin
Les Croisettes 76
B-4870 Trooz
Belgium

cc: Fitch, Even, Tabin, and Flannery
120 South La Salle Street
Suite 1600
Chicago, IL 60603-3406

cc: Magotteaux International SA
Rue Adolphe Dumont
Vaux-Sous-Chevremont, Belgium B-4051

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/23/06

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/860551** Patent No.: **7024845**

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

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

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

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

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

3671
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ALLEMAN HALL MCCOY RUSSELL & TUTTLE
806 SW BROADWAY, SUITE 600
PORTLAND, OR 97205-3335

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph Castaldi et al	:	
Application No. 10/860,563	:	ON PETITION
Filed: June 2, 2004	:	
Attorney Docket No. IFC333	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 28, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 29, 2005.

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

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/30/2010

Applicant	: Joseph Castaldi	: DECISION ON REQUEST FOR
Patent Number	: 7660878	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/860,563	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1527** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOVEY WILLIAMS LLP
Suite 400
2405 Grand Blvd.
Kansas City MO 64108

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AUG 01 2008

In re Application of	:	
Carlson, Michael A.	:	
Application No. 10/860,568	:	DECISION ON PETITION
Filed: June 1, 2004	:	
Attorney Docket No. 34972	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, December 7, 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 March 8, 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 After Non-Final, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3748 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 16 2004

MAILED

AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

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

In re application of
Paul Bello
Application No. 10/860,571
Filed: June 02, 2004
For: HEAT EFFICIENT ANIMAL SHELTER

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

This is a decision on the petition submitted on June 02, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Bello indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 8/02/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Fisher Chen-yin Lee	: DECISION ON REQUEST FOR
Patent Number	: 7573988	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,590	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1467** 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 : 7-31-07

TO SPE OF : Technology Center 2829

10/860594

SUBJECT : Request for Certificate of Correction on Patent No.: 7230442 B2

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

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

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

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

H Nguyen — **SPE**

2829 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OCT 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Christian Wietfeld	:	
Application No. 10/860,600	:	DECISION ON PETITION
Filed: June 4, 2004	:	TO WITHDRAW
Attorney Docket No. 449122074000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 25, 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 the 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTIAN WIETFELD
GLIENICKERSTRASSE 44A
FALKENSEE 14612 GERMANY

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLP
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/860,600	06/04/2004	Christian Wietfeld	449122074000

CONFIRMATION NO. 4175

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000026387284

Date Mailed: 10/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

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

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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JAN 0 3 2007

OFFICE OF PETITIONS

Hansra Patent Services
4525 Glen Meadows Place
Bellingham, WA 98226

In re Application of

Brian Rigney et al.
Application No. 10/860,603
Filed: June 2, 2004
Attorney Docket No. 3123-574

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 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 Tejpal S. Hansra 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 30, 2006 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: **Brian Rigney**
823 Spyglass Circle
Louisville, CO 80027

cc: **Seagate Technology LLC**
Intellectual Property—SHK2LG
1280 Disc Drive
Shakopee, MN 55379

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON, DC 20036

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
DelRegno et al.
Application No. 10/860,609
Filed: June 3, 2004
Attorney Docket No. RIC04015
For: System and Method for Transporting Time-Division Multiplexed . . .

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 26, 2004.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William Drake
2866 Beltline Rd, Apt 377
Garland, TX 75044

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

Letter

In re Application of
DelRegno et al.
Application No. 10/860,609
Filed: June 3, 2004
Attorney Docket No. RIC04015
For: System and Method for Transporting Time-Division Multiplexed . . .

Mr. Drake:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON, DC 20036

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COMMISSIONER FOR PATENTS
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FROM DIRECTORS OFFICE

AUG 2 0 2004

TECHNOLOGY CENTER 3600

JAMES M. DURLACHER
BANK ONE CENTER/TOWER
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204-5137

In re application of	:	**DECISION ON PETITION**
William J. Hyslop	:	**TO MAKE SPECIAL**
Application No. 10/860,622	:	**(APPLICANT'S AGE)**
Filed: June 03, 2004	:	
For: CHILD'S HIGHCHAIR WITH A RECLINING BACK		

This is a decision on the petition submitted on June 03, 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. Hyslop 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.

Best Available Copy

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

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

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

KJD/slb: 8/09/04

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Mr. Robin Z. Parker,
SRT Group Inc.
2523 Lincoln Avenue
Miami FL 33133-3822

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FEB 15 2008

In re Application of	:	
Harley HEATON et al	:	
Application No. 10/860,658	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 061152-0310046	:	

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

The petition is **DISMISSED**.

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

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

The reply and the statement of delay are 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. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the reply in the form of an election and the petition are not signed by all the inventors and the record herein fails to disclose that petitioner herein (Melahn Parker) was ever given a power of attorney to act on behalf of inventors Harley Heaton, Robin Parker, Jimmy Keller, Bruce Salisbury, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the election is not considered a proper reply and the petition is considered to not contain a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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 Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

Cc: Melahn L. Parker
729 Escondido Rd #323
Palo Alto, CA 94305

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mr. Robin Z. Parker,
SRT Group Inc.
2523 Lincoln Avenue
Miami FL 33133-3822

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APR 09 2008

OFFICE OF PETITIONS

In re Application of
Harley HEATON et al
Application No. 10/860,658
Filed: June 4, 2004
Attorney Docket No. 061152-0310046

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed April 11, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 12, 2007.

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

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received January 15, 2008.

Christopher Bottiglieri
for David A. Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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NOV 19 2004

OFFICE OF PETITIONS

In re Reissue Application No. 10/860,664
Filed: June 4, 2004
Original Patent No 6,037,925
Issue Date: March 14, 2000
Original Application No. 08/840,892
Filed: April 17, 1997
Inventor: Kim

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is a decision on the petition filed November 5, 2004, under 37 CFR 1.47(b) to accord this reissue application status in the absence of the signature of the sole inventor Kim.

The petition is granted.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination (OIPE) is authorized to

(1) accept this application under Rule 1.47(b);

(2) process the application with the inventor being Kim and with the indication that the application was filed by Kab-Tae Han as the party in interest under 35 U.S.C. § 118, using the reissue declaration filed on November 5, 2004; and

(3) mail a filing receipt with a filing date of June 4, 2004.

As provided in Rule 1.47(b), 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 referred to OIPE for further processing.

Inquiries related to this communication may be addressed to the undersigned at (571)272-3217.

Brian Hearn

Brian Hearn
Senior 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

Peter H. Priest
5015 Southpark Drive, Suite 230
Durham, NC 27713

Mail Date: 04/23/2010

Applicant	: Edwin Franklin Barry	: DECISION ON REQUEST FOR
Patent Number	: RE41012	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,669	: OF WYETH
Filed	: 06/03/2004	:
		:

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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LEIGH P. GREGORY
PO BOX 168
CLEMSON SC 29633-0168

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Shalaby W. Shalaby	:	
Application No. 10/860,677	:	DECISION ON PETITION
Filed: June 3, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SHA-52	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 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 **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from a register practitioner that he has evidence that the applicant is 65 years of age or older as required under M.P.E.P. § 708.02. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ron Abelson at 571-272-3165 or the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 1615 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

34704
BACHMAN & LAPOINTE, P.C.
900 Chapel Street
Suite 1201
New Haven, CT 06510

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of
STANCO, Bart *et al*
Application No.: 10/860,690
Filing Date: June 3, 2004
Docket No.: 03-283-US2
For: PERSONAL COMMUNICATION DEVICES

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the "Petition to Revive Unintentionally Abandoned Application" filed on April 18, 2005.

The petition under 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)." No additional petition fee is necessary.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed July 28, 2004. The Notice required a new oath or declaration in compliance with 37 CFR 1.63 and a surcharge fee. This Notice set a two (2) month period for reply, with extensions of time obtainable under §1.136(a).

The provisions of 37 CFR 1.137(b) 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 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);

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

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

Here, petitioners submitted the $65.00 surcharge fee, the $750.00 petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. However, the present petition does not satisfy requirement (1) above.

The declaration provided does not identify the citizenship of either inventor. As such, the declaration does not satisfy 37 CFR 1.63(a)(3).

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

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

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Brian Hearn
Petitions Examiner
Office of Petitions

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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34704
BACHMAN & LAPOINTE, P.C.
900 Chapel Street
Suite 1201
New Haven, CT 06510

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
STANCO, Bart *et al*
Application No.: 10/860,690
Filing Date: June 3, 2004
Docket No.: 03-283-US2
For: PERSONAL COMMUNICATION DEVICES

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the "Renewed Petition Under 37 C.F.R. 1.137(b)" filed via facsimile on September 09, 2005.

The renewed petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed July 28, 2004. The Notice required a new oath or declaration in compliance with 37 CFR 1.63 and a surcharge fee.

The original petition filed April 18, 2005 was dismissed in a decision mailed August 4, 2005 because the declaration was defective, in that, the citizenship of the inventors was not recorded on the declaration.

In the renewed petition, a new declaration was submitted meeting the requirements of 37 CFR 1.63. Thus, item (1) of 37 CFR 1.137(b) is now complete. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hanley, Flight & Zimmerman, LLC
150 S. Wacker Drive
Suite 2100
Chicago, IL 60606

Mail Date: 04/20/2010

Applicant	: Tatiana Shpeisman	: DECISION ON REQUEST FOR
Patent Number	: 7610585	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1546** 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 M. HANLON, JR.
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084-3107

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NOV 28 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Wolfgang Rauser	:	
Application No. 10/860,693	:	
Filed: June 3, 2004	:	
Attorney Docket No. SHN-105-A	:	

This is a decision on the petition, filed June 5, 2006, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the Nonfinal Office action mailed September 28, 2005.

The petition states that a reply was timely submitted on December 29, 2005 (Certificate of Mailing on December 27, 2005). To support this assertion, the petitioner has submitted a copy of the response, along with a copy of the return postcard receipt showing a receipt date of December 29, 2005 by the USPTO. It is noted that the transmittal letter identifies application no. 10/860,603 rather than 10/860,693. However, the papers have been associated with application no. 10/860,693 with the receipt date of December 29, 2005.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being forwarded to Technology Center AU 3753.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Sawarynski et al.	:	
Application No. 10/860,696	:	DECISION ON PETITION
Filed: June 3,2004	:	
Attorney Docket No. June 3,2004	:	

This is a decision on the petition, filed February 19, 2008, 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**.

This application was held abandoned for failure to timely respond to the Office action of May 16, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 16, 2007.

Petitioner states that a timely reply was mailed via certificate of transmission on September 14, 2007, which included the following papers: Amendment, a Petition for one (1) month extension of time (in duplicate) and a cover page. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of transmission dated September 14, 2007, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. However, the records at the Office do indicate receipt of a fee of $120 for one month extension of time on September 14, 2007. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 16, 2007 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on September 14, 2007.

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272 – 4914.

This application is being referred to Technology Center AU 3616 for appropriate action in the normal course of business on the reply received with petition.

David Buczi
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

In re Application of Friedrich, Faloney, and Besch Application No. 10/860,708 Filed: June 3, 2004 Attorney Docket No. 298-246 For: Lifting Fork	: : : : : :	DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

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MAY 27 2005

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed February 2, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. 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 inventosr cannot be found or reached after diligent effort or that the inventors refuse 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).

Petitioner fails to indicate the reason petitioner was unable to obtain the signatures of the non-signing inventors. The record is unclear as to whether petitioner is alleging the non-signing inventors cannot be found or that the inventors are refusing to sign the declaration.

One might assume one or more of the inventors cannot be found if mail is being returned as undeliverable and phone calls indicate the phone number is inactive or a person/answering machine indicates the inventor no longer resides at the address where the phone is located. If an inventor cannot be found, then steps should be taken to discover a current address for the inventor.

The following information is provided as a courtesy and does not absolve petitioner of any responsibility to locate the inventor if the information is incorrect. An example of diligent effort can include internet searches for the inventors. For example, a Yahoo people search indicates a possible phone number of (410) 817-6849 and possible address of 9 Upper Field Ct., Kingsville, MD, for Faloney. Another site lists the same address and includes the zip code of 21087 as well. However, the other site indicates other possible addresses for Faloney. These addresses include 1511 S. Highland Ave., Baltimore, MD 21224 and 2003 Paulette Rd, Apt. 3, Dundalk, MD, 21222.

If petitioner is alleging refusal by the inventors, the current evidence fails to establish 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. The petition fails to establish the non-signing inventors were sent a copy of the application papers.

Petitioner should send a copy of the application to the inventor 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.

The fee for a petition under 37 CFR 1.47 increased to $200 on November 1, 2004.[1] Petitioner submitted $130. Therefore, $70 was charged to petitioner's deposit account.

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

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

By 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).

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Paper No.

DILWORTH & BARRESE, LLP
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SUITE 702
UNIONDALE NY 11553

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Friedrich et al.	:	DECISION ON
Application No. 10/860,708	:	PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 298-246	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed July 3, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed December 21, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No proper reply having been received and no extension of time obtained the application became abandoned effective March 22, 2007. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE), the RCE fee and submission under §1.114 (in the form of an amendment); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3652 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the RCE and submission submitted on petition filed July 3, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/860,748	06/03/2004	1616	936	03.36US		22	3

CONFIRMATION NO. 1297

UPDATED FILING RECEIPT

OC000000014122394

Karen A. Lowney, Esq.
Estee Lauder Companies
155 Pinelawn Road
Melville, NY 11747

Date Mailed: 10/18/2004

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

Applicant(s)

Tian Xian Wang, Dix Hills, NY;
Hernando Brieva, Manalapan, NJ;
Dexin Luo, Brooklyn, NY;
Paul H. Marotta, Farmingdale, NY;
John R. Castro, Huntington Station, NJ;
Shahan Nazar, Garden City, NY;
Carl C. Orr, Scotch Plains, NJ;

Power of Attorney:

Karen Lowney–31274
Cynthia Miller–34678
Martin Haerter–37842
Dorene Price–43018
Peter Giancana–44706
Mekalaradha Masilamani–46159

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/477,153 06/09/2003
and is a CIP of 10/481,230 05/06/2004 *
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/860,748

Projected Publication Date: 01/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Stable cosmetic emulsion with polyamide

Preliminary Class

424

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No.

Karen A. Lowney, Esq.
Estee Lauder Companies
155 Pinelawn Road
Melville, NY 11747

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JUN 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/860,748	:	DECISION ON
Filed: June 3, 2004	:	PETITION
Attorney Docket No. 03.36US	:	
	:	

This is a decision on the "PETITION UNDER 37 CFR 1.10(d)," filed September 24, 2004. This petition was recently forwarded to the undersigned for consideration.

Applicants petition to have correspondence filed in the Office and given the USPS deposit date of June 3, 2004 by the USPTO pursuant to § 1.10(a)(1). In support thereof, petitioner submits *inter alia* a copy of the application transmittal and a copy of the Express Mail mailing label.

Prior to a decision being rendered by the Office of Petitions, a corrected filing receipt was issued showing that the filing date had been corrected to June 3, 2004. As the relief requested is properly sought by way of petition under § 1.10(d), rather than by way of a request for corrected filing receipt, rendering of a petition decision is still appropriate.

The instant petition was filed promptly. Moreover, having reviewed the evidence, it is concluded that petitioner has shown that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as

shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. A review of the application file reveals that the "Patent Application Transmittal" initially accorded a filing date of June 4, 2004, bears the number of the Express Mail mailing label, and thus, the number was placed on the correspondence prior to the original mailing. The petition includes a true copy of the "Express Mail" mailing label without a "date-in", but with an official USPS date-stamp of June 3, 2004. Thus, the evidence shows that the correspondence is entitled to a filing date of June 3, 2004.

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

No petition fee is necessary. The petition fee submitted has been refunded to Deposit Account No. 05-1320, as authorized.

As the filing date was previously corrected to June 3, 2004, no further action is required. The application will be examined in Technology Center AU 1615 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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NOV 24 2004

OFFICE OF PETITIONS

In re Application of	:
Kenneth J. Herzog	:
Application No. 10/860,753	:DECISION GRANTING PETITION
Filed: 2 June, 2004	:
Attorney Docket No. P/2780-99	:

This is a decision on the petition styled under 37 CFR 1.10(d) filed on 12 October, 2004, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 2 June, 2004, instead of the presently accorded filing date of 3 June, 2004.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 2 June, 2004. Petitioner states that the "date-in" of "06-03-04" placed on the Express Mail Customer Label, however, was entered in error. In support of petitioner's contention that the application was deposited in Express Mail Post Office to Addressee Service on 2 June, 2004, petitioners have supplied a copy of a U.S. Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EV342529327US (the same Express Mail number found on the itemized application transmittal sheet accompanying the original application papers located in the official file). The USPS Service Statement also bears the signature of a USPS employee. Although the block marked "Date of Pickup" is not legible, the USPS Service Statement has been stamped "Jun -2 04".

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 2 June, 2004.

In view of the above, the application is entitled to a filing date of 2 June, 2004.

The petition is granted.

The application is being referred to Office of Initial Patent Examination for reprocessing with a filing date of 2 June, 2004, not 3 June, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries 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
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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Niebling et al.	:	DECISION GRANTING
Application No. 10/860,754	:	PETITION
Filed: June 2, 2004	:	
Attorney Docket No. P/22-238	:	

This is a decision on the petition under 37 CFR 1.10(d), filed January 18, 2005, requesting that the above-identified application be accorded a filing date of June 2, 2004, rather than the presently accorded filing date of June 3, 2004.

Petitioner alleges that the application was deposited in Express Mail service on June 2, 2004. The date-in indicated on Express Mail label No. EV343677446US is June 3, 2004. However, petitioner asserts that the USPS incorrectly entered June 3, 2004, instead of June 2, 2004, the date of deposit with the USPS Express Mail Service. In support of the allegation, the petition is accompanied by an United States Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post, which indicates that a package bearing Express Mail label No. EV343677446US was accepted by a United States Postal employee on June 2, 2004, at 17:55, as evidenced by his signature. The same Express Mail label number was placed on the original transmittal sheet located in the official file.

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

This application file will be forwarded to the Office of Initial Patent Examination to correct the filing date to June 2, 2004, and to mail a corrected file receipt.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Herzog
Application No. 10/860,756
Filed: June 3, 2004
Attorney Docket No. P/2780-103
For: CONVEYOR SPEED MONITOR

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed September 30, 2004 (certificate of mailing date September 28, 2004) under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 2, 2004, rather than the presently accorded filing date of June 3, 2004.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service on June 2, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, *inter alia*, a USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post that lists a package associated with Express Mail label no. EV 343686292US among others. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day

of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

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

Unfortunately, the copy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post that lists Express Mail label no. EV 343686292US has an illegible date of pickup and an illegible signature for the USPS employee. Therefore, the petition is not accompanied by the persuasive corroborating evidence required by the rule. Accordingly, the petition is dismissed.

Petitioner is requested to submit another copy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post that lists Express Mail label no. EV 343686292US copied on a **lighter setting** so that the critical date of pickup is legible.

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

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

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

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

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Herzog
Application No. 10/860,756
Filed: June 3, 2004
Attorney Docket No. P/2780-103
For: CONVEYOR SPEED MONITOR

: DECISION GRANTING
: PETITION

This is a decision on the petition filed June 8, 2006 (certificate of mailing date June 5, 2006) under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 2, 2004, rather than the presently accorded filing date of June 3, 2004.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service on June 2, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, *inter alia*, a USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post that lists a package associated with Express Mail label no. EV 343686292US among others. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that 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 "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.

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

Petitioner has submitted a copy of a USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post that lists Express Mail label no. EV 343686292US. The statement lists 6/2/04 as the date of pickup and is signed by a postal employee. Therefore, the petition is accompanied by the persuasive corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **June 2, 2004**.

Thereafter, the application will be forwarded to Technology Center Art Unit 1725 for examination in due course.

Any 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

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:
Mitsuaki Osame et al	:
Application No. 10/860,759	: DECISION GRANTING PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7325	:

This is a decision on the petition, filed December 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 December 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and drawings.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\860759.wpd

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

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 28 2007
OFFICE OF PETITIONS

In re Application of	:	
Dong et al.	:	
Application No.: 10/860768	:	ON PETITION
Filing or 371(c) Date: 06/02/2004	:	
Title of Invention:	:	
P-38 INHIBITORS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2007, to revive the above-identified application.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed March 23, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on April 24, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition[1], petition fee, and statement of unintentional delay; however, a reply to the Office communication has not been filed.

A Grantable Petition Under 37 CFR 1.137(a)

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

[1] It is noted that while the petition form identifies the application number as 11/898,581, the statement filed with the petition identifies the serial number as 10/858,581.

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 petition lacks item(s) (1).

As to item (1), a reply to the Office communication is required. A copy of the Office communication, mailed February 26, 2007, is enclosed.

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.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Office communication, mailed February 26, 2007

CC: NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA
EAST HANOVER, NJ 07936-1080

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/860,768	06/02/2004	Qing Dong	17104-005001	2454

20985 7590 03/23/2007
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
SOLOLA, TAOFIQ A

ART UNIT	PAPER NUMBER
1625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	03/23/2007	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/860,768	DONG ET. AL.	
	Examiner	Art Unit	
	Taofiq A. Solola	1625	

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

Period for Reply

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

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

Status

1)☐ Responsive to communication(s) filed on _____.

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) 1-109 is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

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

8)☐ Claim(s) 1-109 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: _____.

Claims 1-109 are pending in this application.

DETAILED ACTION

Election/Restriction

1. The Markush group set forth in the claims includes both independent and distinct inventions, and patentably distinct compounds (or species) within each invention. However, this application discloses and claims a plurality of patentably distinct inventions far too numerous to list individually. Moreover, each of these inventions contains a plurality of patentably distinct compounds, also far too numerous to list individually. For these reasons provided below, restriction to one of the following Groups is required under 35 U.S.C. 121, wherein a Group is a set of patentably distinct inventions of a broad statutory category (e.g. compounds, methods of use, methods of making, etc.):

I. Claims 1-30, 84-105, drawn to compounds of formula (I) and composition thereof, classified in several heterocyclic classes (540, 544, 544, 548, 546) and non-heterocyclic classes (558, 562, etc.), numerous subclasses.

II. Claims 31-83, 106-109, drawn to methods of using compounds of formula (I), classified in several heterocyclic classes (514, 544, 544, 548, 546) and non-heterocyclic classes (558, 562, etc.), numerous subclasses.

2. In addition to an election of one of the inventions of group I-II above, restriction is further required under 35 U.S.C. 121 as follows:

3. If group II is elected or in a rejoinder, applicant is required to elect one specific disease among those listed in the group, which must have support in the specification.

In accordance with the decisions in ***In re Harnisch***, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and ***Ex parte Hozumi***, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984), restriction of a Markush group is proper where the compounds within the group either (1)

do not share a common utility, or (2) do not share a substantial structural feature disclosed as being essential to that utility. In addition, a Markush group may encompass a plurality of independent and distinct inventions where two or more members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the other member(s) obvious under 35 U.S.C. 103.

4. In an election of any of Groups I-II, an election of a single compound (or set of compounds) is further required including an exact definition of each substitution on the base molecule (Formula I), wherein a single member at each substituent group or moiety is selected. For example, if a base molecule has a substituent group R1, wherein R1 is recited to be any one of H, OH, COOH, aryl, alkoxy, halogen, amino, etc., then applicant must select a single substituent of R1, for example OH or aryl, and each subsequent variable position.

In the instant case, Applicant must elect one representative for each of R1-R3, Y, B, Q, D and n, in formula I, and the point of attachment of each elected substituent must be specified. The elected substituents must be specific not generic so as to define a species.

Upon election of a single compound (or set of compounds), the Office will review the claims and disclosure to determine the scope of the independent invention encompassing the elected compound (compounds which are so similar thereto as to be within the same inventive concept and reduction to practice). The scope of an independent invention will encompass all compounds within the scope of the claim, which fall into the same class and subclass as the elected compound (or set of compounds), but may also include additional compounds, which fall in related subclasses. Examination will then proceed on the elected compound AND the entire scope of the invention encompassing the elected compound as defined by common classification. A clear statement of the examined invention, defined by those class(es) and subclass(es) will be set forth in the first action on the merits. Note that the restriction requirement will not be made final until such time as applicant is informed of the full scope of compounds along with process of using said compound under examination. This will be set forth by reference to specific class(es) and subclass(es) examined. Should applicant traverse on the ground that the compounds are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the compounds to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C 103(a) of the other.

All compounds falling outside the class(es) and subclass(es) of the selected compound and any other subclass encompassed by the election above will be directed to nonelected subject matter and will be withdrawn from consideration under 35 U.S.C. 121 and 37 C.F.R.

1.142(b). Applicant may reserve the right to file divisional applications on the remaining subject matter. The provisions of 35 U.S.C. 121 apply with regard to double patenting covering divisional applications.

5. Alternatively, applicant may develop a searchable central core structure (a substantial structural element shared by all the compounds of group II) for the elected invention in accordance with the requirement of MPEP 803.02, which if found novel would obviate the need for further restriction. See MPE 803.02. Applicant should note that formula I, is not searchable due to numerous and extensive substitutions and/or variables.

Applicant is reminded that upon cancellation of claims to a non-elected invention, the inventors must be amended in compliance with 37C.F.R. 1.48(b) if one of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 C.F.R. 1.48(b) and by the fee required under 37CFR 1.17(i).
If desired upon election of a single compound, applicants can review the claims and disclosure to determine the scope of the invention and can **set forth** a group of compounds, which are so similar within the same inventive concept and reduction to practice. Markush claims must be provided with support in the disclosure for each member of the Markush group. See MPEP 608.01(p). Applicant should exercise caution in making a selection of a single member for each substituent group on the base molecule to be consistent with the written description.

Rationale Establishing Patentable Distinctiveness Within Each Group

Each Invention Set listed above is directed to or involves the use or making of compounds which are recognized in the art as being distinct from one another because of their diverse chemical structure, their different chemical properties, modes of action, different effects and reactive conditions (MPEP 806.04, MPEP 808.01). Additionally, the level of skill in the art is not such that one invention would be obvious over either of the other inventions, i.e. they are patentable over each other. Chemical structures, which are similar are presumed to function similarly, whereas chemical structures that are not similar are not presumed to function similarly. The presumption even for similar chemical structures though is not irrebutable, but may be overcome by scientific reasoning or evidence showing that the structure of the prior art would

not have been expected to function as the structure of the claimed invention. Note that in accordance with the holdings of Application of Papesch, 50 CCPA 1084, 315 F.2d 381, 137 USPQ 43 (CCPA 1963) and In re Lalu, 223 USPQ 1257 (Fed. Cir. 1984), chemical structures are patentably distinct where the structures are either not structurally similar, or the prior art fails to suggest a function of a claimed compound would have been expected from a similar structure.

The above Groups represent general areas wherein the inventions are independent and distinct, each from the other because of the following reasons:

1. The inventions of groups I and II are related as product and method of using respectively. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using the product (MPEP 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using the product as in claims 1-30 and 84-105.

In addition, because of the plethora of classes and subclasses in each of the Groups, a serious burden is imposed on the examiner to perform a complete search of the defined areas. Therefore, because of the reasons given above, the restriction set forth is proper and not to restrict would impose a serious burden in the examination of this application.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to Mark Martin on 2/22/07 to request an oral election to the above restriction requirement, but did not result in an election being made.

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

Advisory of Rejoinder

The following is a recitation of M.P.E.P. §821.04, Rejoinder:

> Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. See MPEP § 806.05(f) and § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP § 809.02© and § 821 through § 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims, which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.
>
> Where product and process claims are presented in a single application and that application qualifies under the transitional restriction practice pursuant to 37 CFR 1.129(b), applicant may either (1) elect the invention to be searched and examined and pay the fee set forth in 37 CFR 1.17(s) and have the additional inventions searched and examined under 37 CFR 1.129(b)(2), or (2) elect the invention to be searched and examined and not pay the additional fee (37 CFR 1.129(b)(3)). Where no additional fee is paid, if the elected invention is directed to the product and the claims directed to the product are subsequently found patentable, process claims which either depend from or include all the limitations of the allowable product will be rejoined. If applicant chooses to pay the fees to have the additional inventions searched and examined pursuant to 37 CFR 1.129(b)(2), even if the product is found allowable, applicant would not be entitled to a refund of the fees paid under 37 CFR 1.129(b) by arguing that the process claims could have been rejoined. 37 CFR 1.26 states that "[m]oney paid by actual mistake or in excess will be refunded, but a mere change of purpose after the payment of money...will not entitle a party to demand such a return..." The fees paid under 37 CFR 1.129(b) were not paid by actual mistake nor paid in excess, therefore, applicant would not be entitled to a refund.
>
> In the event of rejoinder, the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104 - 1.106. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. If the application containing the rejoined claims is not in condition for allowance, the subsequent Office action may be made final, or, if the application was already under final rejection, the next Office action may be an advisory action.

The following is a recitation from paragraph five, "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. §103(b)" (1184 TMOG 86(March 26, 1996)):

> "However, in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim **depends from or otherwise includes all the limitations of** an allowed product claim. Withdrawn process claims not commensurate in scope with an allowed product claim will not be rejoined." (emphasis added)

Therefore, in accordance with M.P.E.P. §821.04 and In re Ochiai, 71 F.3d 1565, 37 USPQ 1127 (Fed. Cir. 1995), rejoinder of product claims with process claims commensurate in scope with the allowed product claims will occur following a finding that the product claims are allowable. Until, such time, a restriction between product claims and process claims is deemed proper. Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution to maintain either dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taofiq A. Solola, PhD. JD., whose telephone number is (571) 272-0709. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas McKenzie, can be reached on (571) 272-0670. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

TAOFIQ SOLOLA
PRIMARY EXAMINER
Group 1626

March 14, 2007

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong et al.	:	
Application No.: 10/860768	:	ON PETITION
Filing or 371(c) Date: 06/02/2004	:	
Title of Invention:	:	
P-38 INHIBITORS	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 28, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed March 23, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on April 24, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

A petition to revive the above-identified application under 37 CFR 1.137(b), filed October 26, 2007, was dismissed in a Decision mailed December 31, 2007, for failing to meet the requirements of a grantable petition.

Applicant files the present renewed petition and response to the Office communication. 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 response to the Restriction/Election Requirement; (2) the petition fee; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

Change of Correspondence Address

Applicant files with the present renewed petition a Change of Correspondence Address. However, the Change of Correspondence is not acceptable. The MPEP 601.03 provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or

declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR1.33(a)(2).

A review of the Change of Correspondence Address reveals that it has not been executed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent. A proper Change of Correspondence Address is required.

This application is being forwarded to Technology Center Art Unit 1625 for processing of the response 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

CC: NOVARTIS INSTITUTE FOR BIOMEDICAL RESEARCH
400 TECHNOLOGY SQUARE
CAMBRIDGE, MA 02139

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BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of :
Dong et al. :
Application No. 10/860,768 :
Filed: June 2, 2004 :
Attorney Docket No. PA/4-34057A/TTI US-PCT :
Title: P-38 Inhibitors :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed September 11, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred nineteen (819) days, not two hundred ninety-two (292) 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

In re Patent No. 7,652,044	:
Dong et al.	: DECISION ON REQUEST FOR
Issue Date: January 26, 2010	: RECONSIDERATION OF
Application No. 10/860,768	: PATENT TERM ADJUSTMENT
Filed: June 2, 2004	: AND NOTICE OF INTENT
Attorney Docket No. PA/4-	: TO ISSUE CERTIFICATE OF
34057A/TTI US-PCT	: CORRECTION
Title: P-38 INHIBITORS	:

This is a decision on the petition filed on February 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred (1,200) days. This requested correction includes, pursuant to their duty of candor and good faith to the Office, an increased period of reduction of 340 days

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Patentees have correctly set forth the period of adjustment to which the patent is entitled under 37 CFR 1.702(a) (598 days + 15 days).

Patentees have correctly set forth the period of adjustment to which the patent is entitled under 37 CFR 1.702(b) (969 days).

Patentees have correctly determined the number of days by which the periods of adjustment under 37 CFR 1.702(a) and (b) overlap (15 days).

Patentees have informed the Office that the response filed on March 28, 2008 in response to the restriction requirement

resulted in 340 days of applicant delay beyond the three months provided by 35 U.S.C. §154(b). Thus patentees state instead of a 279-day reduction, a 340-day reduction is warranted.

A review of the application history confirms an additional reduction for the abandonment of the application pursuant to 37 CFR § 1.704(c)(3)(i) is required.

37 CFR 1.704(c) provides 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:
>
> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of: (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance the application was held abandoned on April 24, 2007 based upon the failure of applicant to file a response to the March 23, 2007 restriction requirement. A petition filed under 37 CFR 1.137(b) was filed on October 26, 2007 and dismissed on December 28, 2007. A second petition to revive was filed on March 28, 2008 and granted on April 30, 2008.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced 373 days. The period of reduction commenced April 24, 2007, the date of abandonment, and ended April 30, 2008, the date that the decision granting the petition to revive was mailed. *See*, 37 CFR 1.704(c)(3)(i).

As such the total number of days the period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicant delay is 400 days (373 days + 27 days).

In view thereof, the patent is entitled to an overall adjustment of 1,167 days (613 days under 37 CFR 1.702(a) + 969 days under 37 CFR 1.702(b) - 15 overlapping days - 400 days of applicant delay).

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 one hundred sixty-seven (1,167) 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 $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-4409. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,652,044 B2

DATED : **January 26, 2009** **DRAFT**

INVENTOR(S) : Dong 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 663 days

Delete the phrase "by 663 days" and insert – by 1,167 days--

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AGENSYS C/O MORRISON &
FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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MAY 09 2008

OFFICE OF PETITIONS

In re Application of

Challita-Eid, et al.

Application No. 10/860,769

Filed: June 2, 2004

Attorney Docket No. 511582006202

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 20, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 15, 2007, after it was believed that no response was received to the Notice to File Corrected Application Papers mailed September 14, 2007. The notice allowed a non-extendable period for reply of two (2) months from its mailing date. A Notice of Abandonment was mailed on December 20, 2007, indicating that a reply to the notice was not received.

Petitioner states that drawings responsive to the Notice to File Corrected Application Papers were filed on October 17, 2007, A review of the application file reveals that corrected drawings were filed on October 17, 2007. Based on the aforementioned, it appears that the application was improperly held abandoned as a *bona fide* response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to the Office of Data Management for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 10/860,772 : ON PETITION
Filed: June 3, 2004 :
Attorney Docket No. PC25902A :
For: 2-AMINO-PYRIDINE DERIVATIVES USEFUL FOR THE TREATMENT OF DISEASES

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the August 10, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on November 11, 2006. A Notice of Abandonment was mailed on February 28, 2007.

Applicants have submitted an amendment in reply to the August 10, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 10, 2006 non-final Office action, and the $1,500.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020.00 extension of time fee submitted with the petition on April 3, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

After the mailing of this decision, the application will be returned to Technology Center AU 1624 for consideration of the amendment filed on April 3, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: PHILIP B. POLSTER II
PHARMACIA CORPORATION
PATENT DEPARTMENT
P.O. BOX 1027
ST. LOUIS MO 63006

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IMDS, INC.
124 SOUTH 600 WEST
LOGAN, UT 84321

Mail Date: 04/23/2010

Applicant	: Alan Chervitz	: DECISION ON REQUEST FOR
Patent Number	: 7588590	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/860,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1027** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Dietrich Seidel, et al.	:	
Application No. 10/860,786	:	DECISION GRANTING PETITION
Filed: June 3, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HUBR-1266-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 28, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

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

---

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

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Dietrich Seidel	: DECISION ON REQUEST FOR
Patent Number	: 7608189	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:
Nick Delregno et al.	:
Application No. 10/860,803	: DECISION ACCORDING STATUS
Filed: June 3, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. RIC04007	:

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

The petition is **GRANTED**.

The above-identified application was filed on June 3, 2004, naming Nick Delregno, Scott R. Kotrla, David E. McDysan, Michael U. Bencheck, Matthew W. Turlington, Ross S. Hardin, Richard C. Schell, Howard Chiu, Lee D. Bengston and William Drake as joint inventors but without a signed declaration. Accordingly, on July 29, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on October 26, 2004, an oath or declaration executed by joint inventors Delregno, Kotrla, McDysan, Bencheck, Turlington, Hardin, Schell, Chiu and Bengston and, a petition under 37 CFR 1.47(a) and a request for a one month extension f time was filed. The petition argues that joint inventor Drake refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Drake and that in spite of a telephone conversation between Mr. Drake and the attorney of record, as well as subsequent correspondences to Mr. Drake, he has failed to return an executed 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.

The petition fee, surcharge for late filing of oath or declaration and extension of time fee have been charged to deposit account no. 13-2491 as per the authorization made in the petition.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WILLIAM DRAKE
2866 BELTLINE ROAD, APT #377
GARLAND, TX 75044

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Nick Delregno et al.
Application No. 10/860,803
Filed: June 3, 2004
For: SYSTEM AND METHOD FOR INDICATING CLASSIFICATION OF A COMMUNICATIONS FLOW

Dear Mr. Drake:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September19, 2005

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6,930,625

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

2819

SPE **Art Unit**

10/860,815.

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OIPE JC182 AUG 24 2005 PATENT & TRADEMARK OFFICE

OK approved RIP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Chia-Liang LIN

Patent No: 6,930,625

Issued: August 16, 2005

For: MULTI-THREAD PARALLEL PROCESSING SIGMA-DELTA ADC

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR 1.322(a))

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Certificate
AUG 31 2005
of Correction

Attention: Patent Issue Division
Decision and Certificate of Correction Branch

Sir:

It is requested that a Certificate of Correction be issued in accordance with the form PTO-1050 that is enclosed herewith in duplicate.

The column and line numbers where the errors occur in the issued patent are specified below. The source of the correction is indicated in parentheses following the correction.

Column 11, line 22, "j-third" should be deleted and replaced with --j-thread--,

line 25, "sequence" should be deleted and replaced with --sequences-- and "y_{2m}" should be deleted and replaced with --x_{2m}--,

line 26, "y_{2m+1}" should be deleted and replaced with --x_{2m+1}--. **(Reply to the Office Action Mailed 10/04/2004, amended claim 7).**

Column 12, line 47, "$z_{2m+1} = z_{2m} + x_{2n} - y_{2m}$" should be deleted and replaced with --$z_{2m+1} = z_{2m} + x_{2m} - y_{2m}$--. **(Reply to the Office Action Mailed 10/04/2004, amended claim 13 which was renumbered for publication as claim 14).**

Column 13, line 1, "j-third" should be deleted and replaced with --j-thread--,

line 2, "where j" should be deleted and replaced with --where i--. **(Reply to the Office Action Mailed 10/04/2004, amended claim 14 which was renumbered for publication as claim 15).**

Column 13, line 28, the following text should be inserted after "of" --analog samples representing successive magnitudes of the analog signal,

a second circuit for de-interleaving the first sequence into a set of j second sequences, where j is an integer greater than 1, for processing the set of j second sequences to produce a set of j third sequences of digital data elements, and for interleaivng digital data elements of the set of j third sequences to generate a fourth sequence of digital data elements, and

a third circuit for digitally filtering and decimating the fourth sequence to produce a fifth sequence of digital elements representing successive magnitudes of the analog input signal,

wherein the second circuit comprises an ith-order, j-thread, parallel processing, sigma-delta modulator, where i is an integer greater than 0,

wherein j = 2 and i = 2,

wherein the j second sequences comprise a sequence x_{2m} and a sequence x_{2m+1},

wherein the j third sequences comprise a sequence y_{2m} and a sequence y_{2m+1},

wherein the second circuit

digitizes a pair of analog sequences z_{2m} and z_{2m+1} to generate sequences y_{2m} and y_{2m+1}, respectively, and

generates sequences z_{2m} and z_{2m+1} in accordance with the following recursive formulas:

$$z_{2m} = z_{2m-1} + w_{2m-1} - y_{2m-1}$$
$$w_{2m} = w_{2m-1} + x_{2m} - y_{2m}$$
$$z_{2m+1} = z_{2m} + w_{2m} - y_{2m}$$
$$w_{2m+1} = w_{2m} + x_{2m+1} - y_{2m+1}, \text{ and}$$

wherein sequences z_{2m-1}, w_{2m-1}, and y_{2m-1} are delayed versions of-- **(Reply to the Office Action Mailed 10/04-2004, amended claim 15 which was renumbered for publication as claim 16)**.

Column 13, line 53, "analog samples representing successive magnitudes of the analog signal,

a second circuit for de-interleaving the first sequence into a set of j second sequences, where j is an integer greater than 1, for processing the set of j second sequences to produce a set of j third sequences of digital data elements, and for interleaivng digital data elements of the set of j third sequences to generate a fourth sequence of digital data elements, and

a third circuit for digitally filtering and decimating the fourth sequence to produce a fifth sequence of digital elements representing successive magnitudes of the analog input signal,

wherein the second circuit comprises an ith-order, j-thread, parallel processing, sigma-delta modulator, where i is an integer greater than 0,

wherein j = 2 and i = 2,

wherein the j second sequences comprise a sequence x_{2m} and a sequence x_{2m+1},

wherein the j third sequences comprise a sequence y_{2m} and a sequence y_{2m+1},

wherein the second circuit

digitizes a pair of analog sequences z_{2m} and z_{2m+1} to generate sequences y_{2m} and y_{2m+1}, respectively, and

generates sequences z_{2m} and z_{2m+1} in accordance with the following recursive formulas:

$$z_{2m} = z_{2m-1} + w_{2m-1} - y_{2m-1}$$

$$w_{2m} = w_{2m-1} + x_{2m} - y_{2m}$$

$$z_{2m+1} = z_{2m} + w_{2m} - y_{2m}$$

$$w_{2m+1} = w_{2m} + x_{2m+1} - y_{2m+1}, \text{ and}$$

wherein sequences z_{2m-1}, w_{2m-1}, and y_{2m-1} are delayed versions of" should be deleted. **(Reply to the Office Action Mailed 10/04-2004, new claim 21 which was renumbered for publication as claim 19).**

This patent is assigned of record to Realtek Semiconductor Corp, the assignment having been recorded on June 23, 2004 at Reel 014769, Frame 0437.

This request is made by the undersigned as attorney for the patentee/assignee under the Power of Attorney that was signed on June 1, 2004 and is of record in the Patent and Trademark Office.

Please send the certificate to the address indicated below.

Respectfully submitted,

John Smith-Hill
Reg. No. 27,730

SMITH-HILL & BEDELL, P.C.
16100 N.W. Cornell Road, #220
Beaverton, Oregon 97006
(503) 574-3100
Docket: AVAN 2862
Postcard: 08/05-26

Certificate of Mailing

I hereby certify that this correspondence is being deposited with sufficient postage as first class mail with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on this 22nd day of August, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: AKIRA NISHIMOTO et al.
Application No. 10/860,843
Filed: June 03, 2004
For: DISK ARRAY SYSTEM

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

This is a decision on the petition(s) filed May 09, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

Brian L. Johnson
Special Program Examiner 7/15/07
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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OFFICE OF PETITIONS

In re Application of
Yeong Joong Jeon et al.
Application No. 10/860,844
Filed: June 4, 2004
Attorney Docket No. 9250-2-1

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

This is a decision on the petition under 37 CFR 1.55(c), filed April 6, 2006, which is more appropriately and has been so treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed domestic claim under 35 U.S.C. § § 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/KR98/00136, filed May 30, 1998, as set forth in the Application Data Sheet (ADS) accompanying the present petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1) above.

The claim for priority appearing under the domestic priority information in the Application Data Sheet (ADS) accompanying this petition states that this application is a division of U.S. Patent Application No. 09/722,776, filed November 27, 2000, and that Application No. 09/722,776 was the §371 National Stage of PCT/KR98/00136, filed May 30, 1998. The ADS further claims foreign priority to Korean patent Application No. 1998/19176, filed May 27, 1998.

The claim for priority as set forth in the ADS is incorrect in that Application No. PCT/KR98/00136 is not a §371 National Stage filing of Application No. 09/722,776. The claim for priority appearing in Application No. 09/722,776 states that that application is a continuation of Application No. PCT/KR98/00136.

Therefore, a suggested format for the proper wording of the claim for benefit of domestic priority under 35 U.S.C. §§ 120 and 365(c) to Application No. PCT/KR98/00136 is set forth below:

> "This application is a division of Application No. 09/722,776, filed on November 27, 2000, now U.S. Patent No. 6,881,561, which is a continuation of Application No. PCT/KR98/00136, filed May 30, 1998."

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and either an ADS or an amendment to the first line of the specification following the title (and complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the claim for benefit of domestic priority to the above-noted PCT application must be submitted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

The renewed petition under 37 CFR 1.78(a)(3) and ADS or amendment may also be filed electronically by the Electronic Filing System (EFS).

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Yeong Joong Jeon et al.
Application No. 10/860,844
Filed: June 4, 2004
Attorney Docket No. 9250-2-1

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

This is a decision on the renewed petition filed February 13, 2007 under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of prior-filed international application No. PCT/KR98/00136, as set forth in the concurrently filed Application Data Sheet (ADS).

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

All requirements having been satisfied, the late claim for priority under 35 U.S.C. §§120 and 365(c) is accepted as being unintentionally delayed and the petition under 37 CFR 1.78(a)(3) is **GRANTED.**

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

corrected Filing Receipt, which includes the priority claim to the prior-filed international PCT 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 to Technology Center Art Unit 1645 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the prior-filed application.

For Frances Hicks

Charles Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/860,844	06/04/2004	1645	770	9250-2-1	3	1

CONFIRMATION NO. 9416

CORRECTED FILING RECEIPT

OC000000023363407

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 04/12/2007

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)

Yeong Joong Jeon, Seoul, KOREA, REPUBLIC OF;
Wan Je Park, Kyungkwido, KOREA, REPUBLIC OF;
Na Gyong Lee, Kyungkwido, KOREA, REPUBLIC OF;
Sang Bo Jung, Seoul, KOREA, REPUBLIC OF;
Doo Sik Kim, Seoul, KOREA, REPUBLIC OF;
Hyung Joo Kwon, Seoul, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Cheil Jedang Corporation, Seoul, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number **30448**.

Domestic Priority data as claimed by applicant

This application is a DIV of 09/722,776 11/27/2000 PAT 6,881,561
which is a CON of PCT/KR98/00136 05/30/1998

Foreign Applications

REPUBLIC OF KOREA 1998/19176 05/27/1998

If Required, Foreign Filing License Granted: 08/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/860,844

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel endonuclease of immune cell, process for producing the same and immune adjuvant using the same

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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

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

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

NOT GRANTED

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

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PORTLAND, OREGON 97229

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OFFICE OF PETITIONS

In re Application of	:	
Vishnu G. Kamat	:	
Application No. 10/860,852	:	NOTICE
Filed: June 4, 2004	:	
Attorney Docket No. INVA 2885		

This is in response to the paper filed August 23, 2004, which is being treated as under 37 CFR 1.27(c) seeking status as a small entity.

The Verified Statement Claiming Small Entity Status of August 23, 2004 has been made of record and small entity status has been accorded.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

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

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
J. Jeffrey Geldermann et al :
Application No. 10/860,854 :
Filed: June 4, 2004 :
Attorney Docket No. 17030.01US3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Corrected Application Papers (Notice) mailed July 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 30, 2004.

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

This matter is being referred to the Initial Patent Examination Unit.

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

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CHICAGO, IL 60602

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey J. Geldermann et al :
Application No. 10/860,854 : NOTICE
Filed: June 4, 2004 :
Attorney Docket No. 17030.01US3

The Petition to Correct Fee Deficiency under 37 CFR § 1.28(c) filed March 16, 2007 is not signed. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

Your fee deficiency submission under 37 CFR 1.28(c) is hereby **NOT ACCEPTED**.

Inquiries related to this communication should be directed to the Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey J. Geldermann et al	:	
Application No. 10/860,854	:	NOTICE
Filed: June 4, 2004	:	
Attorney Docket No. 17030.01US3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

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COLLARD & ROE, P.C.
177 NORTHERN BOULEVARD
ROSLYN, NY 11576

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OFFICE OF PETITIONS

In re Application of	:
Fernando Vincenzini	: DECISION ON PETITIONS
Application No. 10/860,867	: UNDER 37 CFR 1.78(a)(3) AND
Filed: June 3, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VINCENZINI-1	:

This is a decision on the petition, filed November 22, 2004, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The petition fails to comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on November 22, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry

> forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement 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 Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *Note* 37 CFR 1.121

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of
Fernando Vincenzini
Application No. 10/860,867
Filed: June 3, 2004
Attorney Docket No. VINCENZINI-1

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

This is a decision on the renewed petition, filed February 16, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should 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. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This matter is being referred to Technology Center Art Unit 3713 for appropriate action on the amendment filed February 16, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed PCT application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 16 2004

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AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
Chicago, IL 606010

In re application of
Arthur L. Freeman
Application No. 10/860,877
Filed: June 04, 2004
For: PORTABLE WIND SCREEN

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

This is a decision on the petition submitted on June 28, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a copy of a birth certificate for Mr. Freeman indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 8/02/04

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FROM DIRECTORS OFFICE

MAR 0 4 2005

TECHNOLOGY CENTER 3600

ROBERT J. JACOBSON PA
650 Brimhall Street South
St Paul, MN 55116-1511

In re application of Hans T. Hagen JR. et al Application No. 10/860,882 Filed: June 04, 2004 For: INSULATED STUD PANEL AND METHOD OF MAKING SUCH	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 10, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Hagen indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 02/14/05

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

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AUG 0 7 2006
OFFICE OF PETITIONS

In re Application of Robbins	:	
Application No. 10/860,896	:	Decision on Petition
Filing Date: June 3, 2004	:	
Attorney Docket No. 015564-003300US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 17, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 18, 2006.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision and the application will be 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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/860,901	06/04/2004	1773	1334	20620-2	1	37	6

CONFIRMATION NO. 1522

CORRECTED FILING RECEIPT

OC000000013708137

30482
BEMIS COMPANY, INC.
2200 BADGER AVENUE
OSHKOSH, WI 54904

Date Mailed: 09/09/2004

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

Applicant(s)

Sam Edward Wuest, Oshkosh, WI;
Richard Roy Bellile, Menasha, WI;

Assignment For Published Patent Application

Curwood, Inc.

Power of Attorney:

Thomas Smith–18243
James Sweeney–18721
Robert Conte–20354
Gerald Geren–24528
Dennis McWilliams–25195
William Lee Jr.–26935
Glenn Ohlson–28455
Cedric Richeson–29339
Jeffrey Gray–33391
John Hayes–33900

Domestic Priority data as claimed by applicant

This application is a CON of 10/229,441 08/27/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/860,901

Projected Publication Date: 12/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Packaging film, package and process for aseptic packaging

Preliminary Class

428

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

GRANTED

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

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

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

NOT GRANTED

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

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

In re Application of	:	
Thomas W. Osborn, III, et al.	:	
Application No.: 10/860,910	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No.: 9660	:	

This is a decision on the petition, filed December 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 3761 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 24, 2008

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/860911 Patent No.: 7229506 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Michael Barr/ _1792___
SPE **Art Unit**

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ADVANCED ANALOGIC TECHNOLOGIES
830 EAST ARQUES AVE
SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of	:	
Kevin P. D'Angelo	:	
Application No.: 10/860913	:	ON PETITION
Filing or 371(c) Date: 06/04/2004	:	
Attorney Docket Number:	:	
1000.0008	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 16, 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 non-final Office action, mailed March 22, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 28, 2007. A Notice of Abandonment was mailed October 5, 2007.

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

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.

This application is being referred to Technology Center Art Unit 2629 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: JOSEPH HOLLINGER
3230 SCOTT BLVD
SANTA CLARA, CA 95054

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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
FURUKAWA, et al.	:	
Application No. 10/860,915	:	DECISION ON PETITION
Filed: June 04, 2004	:	TO WITHDRAW
Attorney Docket No. 13845	:	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 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed August 23, 2006, which set forth a three month shortened statutory period for reply.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

PATENT
04-13446

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of inventor(s):

PASKAL, Darren, et al.

10/860,922

Serial Number:	Not yet assigned	Examiner:	Not yet assigned
Filed:	Filed herewith	Art Unit:	Not yet assigned
Confirmation No.:	Not yet assigned		

For: STERILIZATION SYSTEM AND METHOD

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

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

Dear Sir or Madam:

Applicant hereby petitions to make this new application, which has not received any examination by the Examiner, special. Applicant has conducted a pre-examination search and seeks to expedite examination of the present application.

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

06/08/2004 JADDO1 00000064 10860922
04 FC:1460 130.00 OP

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 JUN 29 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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H. MICHAEL BRUCKER
SUITE 110
5855 DOYLE STREET
EMERYVILLE CA 94608

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OFFICE OF PETITIONS

In re Application of	:
Gary Greenberg	:
Application No. 10/860,940	: DECISION GRANTING PETITION
Filed: June 3, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. GB0401	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 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 March 14, 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 2878 to consider the reply received August 23, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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H. Michael Brucker
Suite 110
5855 Doyle Street
Emeryville, CA 94608

Mail Date: 04/21/2010

Applicant	: Gary Greenberg	: DECISION ON REQUEST FOR
Patent Number	: 7605353	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/860,940	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **618** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

RONALD CRAIG FISH, A LAW
CORPORATION
PO BOX 820
LOS GATOS CA 95032

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Rakib et al.	:	DECISION ON PETITION
Application No. 10/860,959	:	and
Filed: June 4, 2004	:	NOTICE OF NONACCEPTANCE
Title: SYSTEM FOR LOW NOISE	:	OF POWER OF ATTORNEY AND
AGGREGATION IN DOCSIS	:	CHANGE OF CORRESPONDENCE ADDRESS

This is a decision on the Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment filed May 23, 2005. Receipt of the status inquiry filed March 1, 2006 is acknowledged. This petition was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to file a timely reply to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed July 26, 2004. This Notice set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 27, 2004. A courtesy Notice of Abandonment was mailed on April 19, 2005.

Petitioner maintains that a reply to the Notice to File Missing Parts was mailed by Applicants on September 23, 2004. Petitioner asserts that a postcard indicating the September 23, 2004 mailing date, and stamped by the PTO with the date of September 28, 2004, was received by Applicants in response to the reply. In support thereof, petitioner submits a copy of the postcard.

Consideration of the postcard evidence is unnecessary. A review of the image file wrapper for this application reveals that the

response was received in the Office on September 28, 2004, but misplaced by the Office. The Office in error placed the response in another application. As shown by the notations at the bottom of the response, the error has been corrected and the response with a date of receipt of September 28, 2004 has been copied into this application.

However, receipt of the response on Tuesday, September 28, 2004 is outside of the two-month period for response. No petition for extension of time for response was filed on September 28, 2004. Moreover, a review of the response reveals that it did not contain a certificate of mailing pursuant to 37 CFR 1.8(a). Thus, the response cannot be considered timely filed by virtue of such a certificate of mailing.

Nonetheless, a review of the application as filed revealed that it included a general authorization to charge any additional fee required and any overpayment under 37 CFR 1.16 and 1.17 to Deposit Account No. 06-0932. There is no indication that such a fee charge was attempted at the time of submission of the response. However, the Deposit Account is now active. Pursuant to the current authorization, the extension of time for response within the first month required to make the response filed September 28, 2004 timely is being charged to Deposit Account No. 50-1698.

The instant petition was filed by a registered patent practitioner. However, the practitioner is not of record in this application. (The only attorney of record is attorney Ronald Fish). This petition was accepted by the practitioner based on his presumed authority to act in a representative capacity. See 37 CFR 1.34(a). However, a practitioner acting in a representative capacity may not revoke the power of attorney or change the correspondence. See MPEP 402. Moreover, unless an assignee establishes their right to take action in this application by filing the appropriate 3.73(b) statement, the assignee may not revoke the power of attorney or change the correspondence address. Accordingly, the papers filed by the practitioner acting in a representative capacity and presumably by Rachel Nico on behalf of assignee the revocation of attorney and power of attorney and change of correspondence address papers filed are not given effect. See also MPEP 324. To effect these changes the filing of a proper revocation of power of attorney and change of address is necessary.

A courtesy copy of this decision is being mailed to the address on the petition. All future correspondence will be mailed to the correspondence address of record (at the Fish, Law Corporation) until such time as a proper change of correspondence address is filed.

In view thereof, the notice of abandonment mailed April 19, 2005, and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Application Processing (formerly known as the Office of Initial Patent Examination) has been advised of this decision. The application file is, thereby, forwarded for the technical support staff to withdraw the holding of abandonment and for processing of the responses to the Notice filed September 28, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose CA 95164-0640

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY SUITE 700
WASHINGTON, DC 20007-5201

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Charles Brennan	:	
Application No. 10/860,976	:	DECISION ON PETITION
Filed: June 4, 2004	:	TO WITHDRAW
Attorney Docket No. NOR-1344US	:	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 24, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to KATTEN, MUCHIN, ROSENMAN LLP, has been revoked by the assignee of the patent application on January 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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NEW YORK NY 10022

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of
Alistair Hamilton et al.
Application No. 10/861,000
Filed: June 4, 2004
Attorney's Docket No. 21119.0034(7157-241)

ON PETITION

This is a decision on the petition filed March 16, 2005 under 37 CFR 1.137(b). [1], to revive the above-identified application.

The petition is **DISMISSED**.

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

The instant application became abandoned on November 2, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed September 1, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The instant petition and decision on petition precedes the mailing of the Notice of Abandonment.

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks items (1) and (2) of the

---

[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)).

regulation. The petition fee nor the filing fees, excess claim fees or surcharge for their late filing, as required by the Notice to File Missing Parts mailed September 1, 2004 has been submitted. Neither has an authorization to a deposit account been provided.

Thus, this petition cannot be treated on the merits and will not receive any consideration until such time as the required fees have been submitted. A request for reconsideration with the appropriate fees 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
Office of Petitions

Telephone inquiries regarding 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

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OFFICE OF PETITIONS

In re Application of :
Alistair Hamilton et al. :
Application No. 10/861,000 : ON PETITION
Filed: June 4, 2004 :
Attorney's Docket No. 21119.0034(7157-241) :

This is a decision on the renewed petition filed August 11, 2005 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on November 2, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed September 1, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A petition filed March 16, 2005 under 37 CFR 1.137(b) was dismissed in a decision mailed May 11, 2005 because the petition lacked the required response and a petition fee. The instant renewed petition and decision on petition precedes the mailing of the Notice of Abandonment.

Comes now petitioner with this renewed petition.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

The submission of the filing fees, excess claim fees, oath or declaration and surcharge for their late filing, required by the Notice to File Missing Parts mailed September 1, 2004 as well as the petition fee is acknowledged.

Additionally, a five month extension of time request and authorization to charge petitioner's deposit account have been submitted with the instant petition. However, since the decision mailed May 11, 2005 set a two month period for reply and since the renewed petition was filed August 11, 2005, an extension of only one month was needed to make the reply timely. Thus, petitioner's deposit account will be credited in the amount of $2,040.00 (the difference between the $120.00 due for a one month extension of time and the $2,160.00 charged for a five month extension of time, pursuant to 37 CFR 1.136). An extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the request and authorization were submitted with the petition on August 11, 2005, were subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited back to counsel's deposit account no. 19-0079.

All other requirements having been met , this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Alistair Hamilton et al.
Application No. 10/861,000
Filed: June 4, 2004
Attorney Docket No. **21119.0034(7157-241)**

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

This is a decision on the petition filed December 18, 2006 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.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

In reviewing the chain of applications to which petitioners are seeking a claim for priority, it appears that petitioners did not include a reference to intermediate Application No. 09/359,019. Specifically, it does not appear that Application Nos. 10/861,000, 10/303,667 and 09/538,812 reference intermediate Application No. 09/359,019.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application. Before a petition under 37 CFR 1.78(a)(3) can be granted in this application, petitioners must first correct the error in Application Nos. 10/303,667 and 09/359,019.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of	:
Alistair Hamilton et al.	:
Application No. 10/861,000	: DECISION ON PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **21119.0034(7157-241)**	:

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

The petition is **DISMISSED.**

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

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

A petition filed December 18, 2006 was dismissed in a decision mailed June 2, 2007 because in reviewing the chain of applications to which petitioners were seeking a claim for priority, it appeared that petitioners did not include a reference to intermediate Application No. 09/359,019. Specifically, it did not appear that Application Nos. 10/861,000, 10/303,667 and 09/538,812 referenced intermediate Application No. 09/359,019.

The renewed petition must be dismissed because the chain of applications to which petitioners are seeking a claim for priority is not properly set forth in the amendment. Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application.

Upon reviewing the records of the USPTO, it appears that the chain of applications to which petitioners wish to claim the benefit of priority are as follows:

> Application No. 10/861,000 is a continuation of Application No. 10/303,667, which is a continuation of Application No. 09/538,812, which is a continuation of Application No. 09/359,019, which is a continuation of Application No. 08/916,605, which is a continuation of Application No. 08/691,263. Application No. 09/538,812 is also a continuation-in-part of Application Nos. 29/116,604, 29/116,597, 29/116,589 and 29/116,006.

However, a review of the record of Application No. 09/538,812 reveals that petitioners did not make a reference to Application No. 08/916,605, but rather directly claimed the benefit of Application No. 08/691,263. The Office notes that there is no co-pendency between Application Nos. 09/538,812 and 08/691,263.

Before the petition under 37 CFR 1.78(a)(3) can be granted in the present application, petitioner must 1) file a Certificate of Correction in 09/538,812, [1] making a reference to Application Nos. 09/359,019, 08/916,605 and 08/691,263, and stating the relationship between these applications; 2) file a renewed petition under 37 CFR 1.78(a)(3) in Application No. 10/303,667; and, 3) file a renewed petition under 37 CFR 1.78(a)(3) in Application No. 10/861,000, accompanied by either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) and a copy of the granted request for a Certificate of Correction from Application No. 09/538,812.

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[1] For applications filed prior to November 29, 2000, a Certificate of Correction can be used, without the need for a petition under 37 CFR 1.78 to correct the failure to make a reference to prior co-pending applications. See MPEP 1481.03(II)(A).

Because the issue fee has been paid in the instant application, if the instant application is issued into a Patent before the claim for priority is granted, petitioners will have to file a request for a certificate of correction.

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

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MAY 17 2005
MAY 17

IIYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

In re application of Leon Marmorshteyn et al. Application No. 10/861,002 Filed: June 07, 2004 For: METHOD OF INCREASING PRODUCTIVITY AND RECOVERY OF WELLS IN OIL AND GAS FIELDS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

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

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

The statement provided is not signed by the applicant.

Any request for re consideration must be filled within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The enveloped should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

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

KJD/slb: 04/05/05

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JUN 2 2005

IIYA ZBOROVSKY
6 Schoolhouse Way
Dix Hills, NY 11746

In re application of Leon Marmorshteyn et al. Application No. 10/861,002 Filed: June 07, 2004 For: METHOD AND INCREASING PRODUCTIVITY AND RECOVERY OF WELLS IN OIL AND GAS FIELDS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on May 15, 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 driver license indicating Mr. Marmorshteyn 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
(571) 272-6611

SNM/slb: 05/25/05

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W MARK RICHTER
3301 COBBLE STREET
NASHVILLE TN 37211

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OFFICE OF PETITIONS

In re Application of	:	
Richter, et al.	:	
Application No. 10/861,016	:	ON PETITION
Filed: June 4, 2004	:	
Title: Ergonomic Wheelchair Hand Rim	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed May 8, 2006.

The petition is **DISMISSED**.

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

Petitioner states that the instant application is the subject of an international application filed on June 15, 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 lacks requirement (3), the proper statement.

The instant petition is only signed by one of the inventors. Papers filed in a patent application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);

(3) 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, on renewed petition, all of the inventors must make the required statement (i.e. sign the petition), if no attorney or agent is appointed, or no assignee takes action in the application.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

W MARK RICHTER
3301 COBBLE STREET
NASHVILLE TN 37211

In re Application of :
Richter, et al. :
Application No. 10/861,016 : ON PETITION
Filed: June 4, 2004 :
Title: Ergonomic Wheelchair Hand Rim :

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 14, 2006.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on June 15, 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.

Applicants filed a petition under 37 CFR 1.137(f) on May 8, 2006. However, the petition was dismissed in a decision mailed on August 10, 2006. The petition lacked the proper statement signed by all of the applicants for patent.

With the instant renewed petition, petitioner has submitted a petition signed by all of the applicants for patent.

The matter is being forwarded to Group Art Unit 3611 to await applicants' reply to the Office action mailed August 16, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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COOLEY GODWARD KRONISH L.L.P.
ATTN: PATENT GROUP
777 6th STREET, NW, SUITE 1100
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of Rubin et al. Application No. 10/861,040 Filed: June 4, 2004 Attorney Docket No. SMAF-002/01US304991-2004	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 21, 2007. A Notice of Abandonment was mailed January 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/961,319, filed December 20, 2007.

Further, the signature and the printed name differ on the petition submitted December 21, 2007.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

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FROM DIRECTORS OFFICE

JUN 11 2007

TECHNOLOGY CENTER 3600

Dana Alden
THE MACLEAN FOGG COMPANY
1000 Allanson Road
Mundelein, IL 60060-3890

In re Application of Chong Kheng Lim et al Application No. 10/861,050 Filed: June 4, 2004 Attorney Docket No.: 04-9540-6310-0000-10 For: JOINT ASSEMBLY	DECISION ON PETITION FOR WITHDRAWAL OF THE HOLDING OF ABANDONMENT

This is in response to applicants' petition for withdrawal of the holding of abandonment filed November 13, 2006. With respect to this petition, it is noted that the petition listed the wrong application serial number thereon. The petition is now correctly placed with SN 10/861,050 and not "10/816,050" as was identified.

The petition is **DENIED**.

Applicant alleges that the holding of abandonment for failure to timely respond to the Office action mailed December 28, 2005 with a *bona fide* attempt at a proper reply is in error because the response filed on June 28, 2006 was timely and constituted a *bona fide* attempt.

A review of the record reveals that applicants filed a response to the non-final Office action of December 28, 2005 on the last day of the 6-month statutory period for reply, i.e., June 28, 2006. A request for a 3-month extension of time was included in the response. The response canceled original claims 1-5 and presented newly added claims 6-23.

On August 29, 2006, the examiner held the applicants' response to be non-responsive to the Office action mailed December 28, 2005 because of applicants' failure to comply with the provisions of 37 CFR 1.111. No further time was given by the examiner to complete the response and, on September 11, 2006, a Notice of Abandonment was mailed since the period for reply had expired.

MPEP 714.02 makes clear that, to be responsive, a reply must comply with 37 CFR 1.111(b). 37 CFR 1.111(b) clearly states that in order to be entitled to reconsideration or further examination, applicants must reply to the Office action and such reply "must present arguments pointing out the specific distinctions believed to render the claims, *including any newly presented claims*, patentable over any applied references" (emphasis added). It is further stated by 37 CFR

1.111(b) that a general allegation that claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Applicants' remarks stated that claims 1-5 were canceled so that they could be prosecuted in a continuation application. Applicants also stated that a petition for extension of time and a fee transmittal authorizing the Office to deduct fees from a deposit account were included. Finally, the remarks stated the following:

> *"Applicants submit that the subject matter of the present application is novel, non-obvious, and useful. It is therefore respectfully requested that the present application issue as early as possible."*

Nowhere in the remarks are any of the newly presented claims mentioned, let alone what specific distinctions render the claims patentable over the applied references. Further, none of the previous rejections were even acknowledged. This omission constitutes a serious deficiency of the response. Accordingly, it is clear that the response filed June 28, 2006 was not complete and thus was not fully responsive to the prior Office action.

37 CFR 1.135 provides that if no proper reply is filed within the time set in the Office action under 37 CFR 1.134 or as may be extended under 37 CFR 1.136, the application will be abandoned unless an Office action indicates that another consequence, such as a disclaimer, will take place. Further, 37 CFR 1.135(c) provides that an applicant may be granted a new time period for reply to a non-final Office action in order to supply inadvertent omissions from substantially complete reply that is a *bona fide* attempt to advance prosecution. MPEP 714.03 makes it clear that 37 CFR 1.135(c) authorizes, but does not require, an examiner to give an applicant a new time period to supply an omission.

The examiner deemed the response to not be a *bona fide* attempt in view of the lack of any attempt to point out what applicants thought were the patentably distinguishing features in the newly added claims or how the newly added claims avoided the applied references or even what the references were. In fact, it is noted here that applicants' general allegation makes no attempt to mention any of the newly added claims at all and merely alleges that the "subject matter of the present application" is "novel, non-obvious, and useful."

Applicants' belated attempt to supply the omission through arguments in the instant petition does not alter the fact that the response, as filed on June 28, 2006, was properly held to be non-responsive to the prior Office action. Further, nowhere in the instant petition, nor the accompanying affidavit, can any explanation be found of why the requirements of 37 CFR 1.111, and more particularly the requirement of 37 CFR 1.111(b), was thought to have been complied with. Applicants did not merely fail to "treat every rejection". Rather, applicants failed to treat any rejection and failed to make any attempt to point out why any of the newly presented claims were considered to be patentable. Thus, it cannot be said that applicants' response constituted a *bona fide* attempt at complying with the requirements of 37 CFR 1.111.

In view of the above, there is no evidence that the examiner abused his discretion in holding that the response of June 28, 2006 did not constitute a *bona fide* attempt to reply to the non-final Office action mailed December 28, 2005 and not granting applicants an additional time period beyond the original six-month statutory period to correct the noted deficiency. The holding of the instant application as abandoned for failure to timely file a proper response is appropriate. Accordingly, applicants' request to withdraw the Notice of Abandonment is denied.

In view of the fact that the application has been properly held abandoned, applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the response was unavoidable. This includes a satisfactory showing that the cause of delay resulting in failure to respond in timely fashion to the Office communication was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 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 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under the unavoidable standard is $250 for small entity and $500 for large entity. The fee for a petition under the unintentional standard is $750 for small entity and $1500 for large entity.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner for Patent Examination Policy
P.O. Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries regarding petitions to revive should be directed to the Office of Petitions staff at (571) 272-3282.

If petitioner files a renewed petition and wishes review of this TC Director's decision by the Director of the USPTO the renewed petition should clearly state this desire.

Telephone inquiries regarding this decision should be directed to Daniel Stodola at (571) 272-7087.

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

SNM/DS: 5/18/07

SM

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THE MACLEAN FOGG COMPANY
C/O DANA ALDEN
1000 ALLANSON ROAD
MUNDELEIN, IL 60060-3890

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Chong Kheng Lim et al	:	
Application No. 10/861,050	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 04-9540-6310-000-10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 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 December 28, 2005, which set a shortened statutory period for reply of three (3) months. Three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 29, 2006.

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

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

This matter is being referred to Technology Center AU 3679 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Dana Andrew Alden
The Alden Law Group, LLP
2122 York Road, Suite 180
Oak Brook, IL 50523

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

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AUG 13 2008

In re Application of

Fischer, et al.

Application No. 10/861,065

Filed: June 4, 2004

Attorney Docket No. 680-087US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed July 17, 2008

The petition is **granted**.

This application was held abandoned February 20, 2008, after no reply was received to the non-final Office action mailed November 19, 2007. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on February 20. 2008, although a Notice of Abandonment has not yet been mailed. The instant petition was filed on July 17, 2008. Petitioner maintains that the non-final Office action was never received.

A review of the application file history reveals that the non-final Office action was returned to the USPTO on November 28, 2007, and that the envelope containing the non-final Office action had no mailing address. The evidence is convincing that petitioner did not receive the non-final Office action. The petition is granted. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2600, GAU 2618 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Timothy Gordon Godfrey	: DECISION ON REQUEST FOR
Patent Number	: 7647165	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/861,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Timothy Gordon Godfrey
Patent Number : 7647165
Issue Date : 01/12/2010
Application No : 10/861,066
Filed : 06/04/2004

: 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 **1109** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 5/23/07

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/861090 Patent No: 7202223 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The C of C has been approved.

/S. A. Jiang/ 1623

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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GE HEALTHCARE BIO-SCIENCES CORP.
PATENT DEPARTMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540

Mail Date: 04/20/2010

Applicant	: Karl Andersson	: DECISION ON REQUEST FOR
Patent Number	: 7642058	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/861,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **580** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM WA 98226

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Mirmehedi L. Abrishamchian, et al. :
Application No. 10/861,101 :
Filed: June 4, 2004 :
Attorney Docket No. 3123-579 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Hansra Patent Services: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Hansra Patent Services 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).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor under 37 C.F.R. §3.71 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).

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MIRMEHDI L. ABRISHAMCHIAN
6 BROUSHANE CIRCLE
SHREWBURY, MA 05145

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY -- SHK2LG
1280 DISC DRIVE
SHAKOPEE, MN 55379

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/861,101	06/04/2004	Mirmehdi L. Abrishamchian	3123-579

CONFIRMATION NO. 8490

OC000000021969458

OC000000021969458

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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James M. Deimen
Suite 300
320 N. Main Street
Ann Arbor MI 48104-1192

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JUL 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Rocco Logozzo	:	
Application No. 10/861,113	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 03-1415	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 6, 2006. Accordingly, the date of abandonment of this application is March 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Pierre Roy :
Application No. 10/861,117 :
Filed: June 3, 2004 :
Attorney Docket Number: 15675P533 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 4, 2004, for failure to timely reply to the Notice to File Missing Parts mailed on August 3, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. This petition and decision precedes the mailing of a Notice of Abandonment.

Receipt of the oath or declaration is acknowledged.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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John M. Harrington
Kilpatrick Stockton LLP
101 West Fourth Street
Winston-Salem, NC 27101

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
KRANZ, Mark J.	:	
Application No. 10/861,119	:	DECISION ON PETITION
Filed: June 04, 2004	:	TO WITHDRAW
Attorney Docket No. **51382-286664**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 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).

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAGUIRE LAW OFFICE
423 E ST.
DAVIS, CA 95616

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of :
Jessica Ash Warring, et al. :
Application No. 10/861,127 : ON PETITION
Filed: June 3, 2004 :
Attorney Docket No. 103.25 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 17, 2004, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 24, 2005. In response, on June 6, 2005, the present petition was filed.

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

The file is being referred to Technology Center Art Unit 2837 for consideration of the amendment filed June 6, 2005.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KIMTON N. ENG, ESQ.
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of Joseph M. Jeddeloh Application No. 10/861,163 Filed: June 4, 2004 Attorney Docket No. 33581/US	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\861163.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
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OCT 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,509,367	:
Issued: March 24, 2009	: DECISION GRANTING PETITION
Application No. 10/861,167	: UNDER 37 CFR 1.78(a)(3) AND
Filed: June 4, 2004	: REQUEST FOR CERTIFICATE
Attorney Docket No. 42P2445C4	: OF CORRECTION

This is a decision on the petition, filed August 17, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/989,736, filed November 19, 2001, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed June 4, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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 as 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100.00 certificate of correction fee, was charged to petitioner's deposit account as authorized.

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

This matter is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/861,167	06/04/2004	2193	2320	42P2445C4	1	1

CONFIRMATION NO. 9334

CORRECTED FILING RECEIPT

45209
INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000038183758

Date Mailed: 10/08/2009

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

Applicant(s)

Alexander D. Peleg, Haifa, ISRAEL;
Millind Mittal, South San Francisco, CA;
Larry M. Mennemeier, Boulder Creek, CA;
Benny Eitan, Haifa, ISRAEL;
Carole Dulong, Saratoga, CA;
Eiichi Kowashi, Ryugasaki-shi, JAPAN;
Wolf Witt, Sunnyvale, CA;

Power of Attorney:

Stephen King--19180
Ronald Reagin--20340
Stanley Sokoloff--25128
Edwin Taylor--25129
Roger Blakely Jr--25831
Norman Zafman--26250
Eric Hyman--30139
James Scheller Jr--31195
Lester Vincent--31460
George Hoover II--32992

Domestic Priority data as claimed by applicant

This application is a CON of 09/989,736 11/19/2001 PAT 7,424,505
which is a CON of 08/522,067 08/31/1995 PAT 6,385,634

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/861,167**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHOD AND APPARATUS FOR PERFORMING MULTIPLY-ADD OPERATIONS ON PACKED DATA

Preliminary Class

708

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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APR 30 2009

OFFICE OF PETITIONS

Barden Patterson
Patterson & Sheridan, LLP
3040 Post Oak Boulevard
Suite 1500
Houston, TX 77056-658

In re Application of	:	
Michael Wayne Graham et al.	:	
Application No. 10/861,191	:	DECISION ON PETITION
Filed: June 3, 2004	:	TO WITHDRAW
Attorney Docket No. BENI/0005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 2006.

The request is **moot because a revocation of power of attorney has been accepted**.

A review of the file record indicates that the power of attorney to B. Todd Patterson and all attorneys/agents of record have been revoked by the assignee of the patent application on June 15, 2006. 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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Patton Boggs, LLP
8484 Westpark Drive
Suite 900
McLean, VA 22102

DETAILED ACTION

In view of the papers filed 08/13/2008, the inventorship in this nonprovisional application has been changed by the deletion of **R. Lee Thompson** and **Jason Seawall**.

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.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NASIR SHAHRESTANI whose telephone number is (571)270-1031. The examiner can normally be reached on Mon.-Thurs: 7:30-5:00, 2nd Friday: 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. 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.

/BRIAN CASLER/
Supervisory Patent Examiner, Art Unit 3737

/Nasir Shahrestani/
Examiner, Art Unit 3737

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,547,283 B2
Serial No. : 10/861,197
Inventor(s) : Mourad et al.
Issued : June 16, 2009
Title : **METHODS FOR DETERMINING INTRACRANIAL PRESSURE NON-INVASIVELY**
Docket No. : **12500.2003U**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

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

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

SPECKMAN LAW GROUP PLLC
1201 THIRD AVENUE, SUITE 330
SEATTLE WA 98101

ecw

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this correspondence is being transmitted herewith via facsimile transmission to Fax No. (571) 273- 8300 on the date indicated below and is addressed to: MAIL STOP: OFFICE OF PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
Date of Transmission: March 25, 2010

Selena Whitaker-Paquiet

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Attorney Docket No.: 12500.2003U
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of **Pierre MOURAD, Brandt MOHR, Michel KLIOT and Robert C.A. FREDERICKSON**

Patent No .	:	7,547,283 B2
Issue Date	:	June 16, 2009
Application No .	:	10/861,197
Filing Date	:	June 3, 2004
For	:	**METHODS FOR DETERMINING INTRACRANIAL PRESSURE NON-INVASIVELY**

PETITION TO CORRECTASSIGNEE AND REQUEST FOR CERTIFICATE OF CORRECTION TRANSMITTAL LETTER

ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-referenced patent are the following:

1. Petition to Correct Assignee under 37 CFR 3.81 and Request for Certificate of Correction;
2. Certificate of Correction; and
3. Copy of Fee Transmittal Sheet evidencing previous payment of fees.

A total of 6 sheets, including this transmittal, are being submitted herewith.

Respectfully submitted,

Ann W. Speckman
Registration No. 31,881

Date: March 25, 2010

SPECKMAN LAW GROUP PLLC
20601

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MAR 2 5 2010

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this correspondence is being transmitted herewith via facsimile transmission to Fax No. (571) 273-8300 on the date indicated below and is addressed to: MAIL STOP: OFFICE OF PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
Date of Transmission: March 25, 2010

Selena Whitaker-Paquiet

Attorney Docket No.: 12500.2003U
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of **Pierre MOURAD, Brandt MOHR, Michel KLIOT and Robert C.A. FREDERICKSON**

Patent No.	:	7,547,283 B2
Issue Date	:	June 16, 2009
Application No.	:	10/861,197
Filing Date	:	June 3, 2004
For	:	METHODS FOR DETERMINING INTRACRANIAL PRESSURE NON-INVASIVELY

PETITION TO CORRECT ASSIGNEE UNDER 37 C.F.R. §3.81 AND REQUEST FOR CERTIFICATE OF CORRECTION

ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Assignee information was inadvertently omitted by the Applicant on the Part B Issue Fee Transmittal form. Patent owners PhysioSonics, Inc. and The University of Washington hereby request that the Certificate of Correction attached to this document be issued for the above-identified patent. Patentee's attorney submitted a previous Request for Certificate of Correction on July 8, 2009 that was refused because no petition accompanied the submittal. Phone calls to the signatory on the refusal documentation were not returned. Patentee's attorney has reviewed the relevant provisions of 37 CRF and does not find any requirement for a Petition but submits this Petition in an effort to obtain a Certificate of Correction.

PAGE 2/6 * RCVD AT 3/25/2010 2:46:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2738300 * CSID:206 382 2669 * DURATION (mm-ss):01-08

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MAR 2 5 2010

The assignment document listing the omitted Assignee, The University of Washington, was recorded by the Assignment Division of the USPTO at Reel 015594, Frame 0962, on January 13, 2005, which is before issuance of the subject patent.

Applicant previously submitted a Request for a Certificate of Correction on July 8, 2009, through the USPTO's Electronic Filing System. Fees of $100.00 as set forth in 37 CFR 1.20(a) and the processing fee of $130.00 as set forth in 37 CFR 1.17(i) were submitted at that time, for a fee total of **$230.00**, made by Deposit Account deduction.

A duplicate Certificate of Correction is submitted herewith. A copy of the Electronic Fee Transmittal document evidencing withdrawal of fees totaling $230.00 from our Deposit Account in connection with submission of the previous request on July 8, 2009 is also submitted herewith. No additional fees are required for granting this Petition and issuing the Certificate of Correction.

Respectfully submitted,

Ann W. Speckman
Registration No. 31,881

Date: March 25, 2010

SPECKMAN LAW GROUP PLLC
20601

PAGE 3/6 * RCVD AT 3/25/2010 2:46:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2738300 * CSID:206 382 2669 * DURATION (mm-ss):01-08

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	**7,547,283 B2**
APPLICATION NO.	:	**10/861,197**
ISSUE DATE	:	**June 16, 2009**
INVENTOR(S)	:	**Pierre MOURAD, Brandt MOHR, Michel KLIOT and Robert C.A. FREDERICKSON**

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:

Col. No.	Line(s)	Edits
Title page	Item (73)	Please **add:** Assignee: "The University of Washington, Seattle, WA (US)"

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Ann W. Speckman
SPECKMAN LAW GROUP PLLC
1201 Third Avenue, Suite 330
Seattle, WA 98101

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P O Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.

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

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Electronic Patent Application Fee Transmittal

Application Number:	10861197
Filing Date:	03-Jun-2004
Title of Invention:	METHODS FOR DETERMINING INTRACRANIAL PRESSURE NON-INVASIVELY
First Named Inventor/Applicant Name:	Pierre D. Mourad
Filer:	Ann Willard Speckman/Selena Whitaker-Paquiet
Attorney Docket Number:	12500.2003U

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Certificate of correction	1811	1	100	100
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Processing Fee, except for Provis. apps	1808	1	130	130
Total in USD ($)				**230**

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CHICAGO IL 60690-2786

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Keefe :
Application No. 10/861,202 : ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. 36798-95780 :
For: PST INSERT FOR FENCE SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the final Office action, mailed April 5, 2006, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being filed, the application became abandoned on July 6, 2006. A Notice of Abandonment was mailed on November 20, 2006.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Mills has indicated that the reply filed January 22, 2007 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510.00 extension of time fee submitted with the petition on January 22, 2007 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief for application no. 10/861,202

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/861,202	KEEFE, JAMES P.	
	Examiner	Art Unit	
	Daniel J. Mills	3679	

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

THE REPLY FILED 22 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *Applicant's amendment dated 1/22/2007 includes limitations ("the hollow fence ... of the fence post structure" claim 1 lines 3-8; "the elongate stiffening insert ... hollow fence post structure" claim 1 lines 17-20; "the first and second portions ... the fence post structure" claim 5 lines 11-14; "the first and second portions ... fence post structures" claim 9 lines 11-14) which present new issues requiring further search and consideration*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-10*.
   Claim(s) withdrawn from consideration: *11-17*.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

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OFFICE OF PETITIONS

In re Application of :
Keefe :
Application No. 10/861,202 : ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. 36798-95780 :
For: PST INSERT FOR FENCE SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the final Office action, mailed April 5, 2006, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being filed, the application became abandoned on July 6, 2006. A Notice of Abandonment was mailed on November 20, 2006.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

Docketed
By: R Thor
Docketed: 06/18/07
Due Date: 06/12/07

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Mills has indicated that the reply filed January 22, 2007 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510.00 extension of time fee submitted with the petition on January 22, 2007 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief for application no. 10/861,202

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/861,202	Applicant(s) KEEFE, JAMES P.	
	Examiner Daniel J. Mills	Art Unit 3679	

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

THE REPLY FILED 22 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *Applicant's amendment dated 1/22/2007 includes limitations ("the hollow fence ... of the fence post structure" claim 1 lines 3-8; "the elongate stiffening insert ... hollow fence post structure" claim 1 lines 17-20; "the first and second portions ... the fence post structure" claim 5 lines 11-14; "the first and second portions ... fence post structures" claim 9 lines 11-14) which present new issues requiring further search and consideration*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-10*.
   Claim(s) withdrawn from consideration: *11-17*.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 36798-95780

First named inventor: KEEFE, James

Application No.: 10/861,202 Art Unit: 3679

Filed: June 4, 2004 Examiner: MILLS, Daniel J.

Title: PST INSERT FOR FENCE SYSTEM

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee
- [x] Small entity-fee $ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- [ ] Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of a Response to the Office Action (identify type of reply):
- [ ] has been filed previously on _____.
- [x] is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
- [ ] has been paid previously on _____.
- [ ] is enclosed herewith.

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

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

COPY

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Grant H. Peters	January 22, 2007
Signature	Date
Grant H. Peters	35,977
Typed or printed name	Registration Number, if applicable
1 N. Wacker Drive, Suite 4400	312-357-1313
Address	Telephone Number
Chicago, IL 60606	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BARNES & THORNBURG LLP
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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Keefe :
Application No. 10/861,202 :
Filed: June 4, 2004 :
Attorney Docket No. 36798-95780 :
For: PST INSERT FOR FENCE SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2007 and supplemented on October 11, 2007, requesting reconsideration of a decision mailed June 12, 2007 dismissing a petition under 37 CFR 1.137(b) filed January 22, 2007.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action, mailed April 5, 2006, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being filed, the application became abandoned on July 6, 2006. A Notice of Abandonment was mailed on November 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114;[1] (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

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

[1] While the petition states the reply is a Notice of Appeal, filed August 13, 2007, it is noted that an RCE, rather than an Appeal Brief, was filed on October 11, 2007. It appears that petitioner desires that the Office consider the RCE as his reply. If this is an incorrect assumption, petitioner is requested to notify the Office promptly.

This application is being referred to Technology Center AU 3679 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ONE MICROSOFT WAY
REDMOND WA 98052-6399

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OFFICE OF PETITIONS

In re Application of
Sergi Shinkevich
Application No. 10/861,207
Filed: June 4, 2004
Attorney Docket No.
308951.01/MSFTI122915

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of August 21, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 22, 2007. A Notice of Abandonment was mailed March 28, 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 an amendment, specification and drawings, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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. 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.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: MacLane C. Key
1800 Diagonal Road
Alexandria, VA 22314

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

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OFFICE OF PETITIONS

In re Application of
Ping Hu et al.
Application No. 10/861,208
Filed: June 3, 2004
Attorney Docket No. 0274-6005.1US

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Allen C. Turner on behalf of all attorneys associated with customer number 24247. All attorneys/agents associated with customer number 24247 have been withdrawn.

A restriction requirement was mailed on July 9, 2007. Failure to timely respond will result in the abandonment of this application.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Ping Hu
2625 East Solar Drive #21
Salt Lake City, UT 84124

cc: Needle & Rosenberg
999 Peachtree Street
Suite 1000
Atlanta, GA 30309

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MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
Warren LIN	:	
Application No. 10/861,213	:	DECISION ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 26572-504	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 1, 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 February 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 an amendment, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The unintentional delay statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). The petitioner must notify the Office if this is not a correct interpretation of such statement.

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

This application is being referred to Technology Center AU 3683 for appropriate action by the Examiner in the normal course of business on the reply received September 25, 2007.

April Wise
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/861,213	06/03/2004	Warren Lin	26571-504

CONFIRMATION NO. 9415

POA ACCEPTANCE LETTER

MICHAEL J. KROLL
171 STILL WELL LANE
SYOSSET, NY 11791

OC000000026740038

Date Mailed: 11/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2006.

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

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/861,213	06/03/2004	Warren Lin	26571-504

CONFIRMATION NO. 9415

POWER OF ATTORNEY NOTICE

35437
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

OC000000026739968

Date Mailed: 11/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2006.

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

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Terran Boylan :
Application No. 10/861,222 :
Filed: June 4, 2004 :
For: **STROKE-BASED POSING OF THREE-DIMENSIONAL MODELS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on April 25, 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.

Attorneys/Agents requesting the withdraw are withdrawn.

Accordingly, the request is **GRANTED**.

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 Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-6257

In re Application of :
James D. Asnis :
Application No. 10/861,226 :
Filed: June 4, 2004 :
Docket No. 08212/0201006-US0/NC45193 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 11, 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 May 31, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 9, 2006 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2131 for further prosecution.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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OFFICE OF PETITIONS

In re Application of
Jonathan B. Baell, et al.
Application No. 10/861,227
Filed: June 3, 2004
Attorney Docket No. 5644AL-2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 13, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 31, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 1, 2009. On April 13, 2009 the present petition was filed. A Notice of Abandonment was subsequently mailed on April 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Selig, Duff & Associates, LLC
11 North Main Street
South Norwalk, CT 06854

In re Application of :
Joseph P. Catanese :
Application No. 10/861,237 : DECISION ON PETITION
Filed: June 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 April 6, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **discharged by managing attorney, Gabe Selig**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Buiecl
Petitions Examiner
Office of Petitions

cc: Allan Chan & Associates
225 Broadway, Suite 700
New York, NY 10007

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GAUTHIER & CONNORS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Shore et al	:	
Application No. 10/861,245	:	DECISION GRANTING PETITION
Filed: June 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. D-1215	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of July 30, 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

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Nicholas F. Gallo
Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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In re Application of	:	
COLLIER, et al.	:	DECISION ON PETITION
Application No.: 10/861,252	:	
Filed: June 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 040587/307313	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 1, 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 and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on September 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 1, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on February 3, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3749.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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THADDIUS J. CARVIS
102 NORTH KING STREET
LEESBURG, VA 20176

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OFFICE OF PETITIONS

In re Application of	:	
Jessie Jianxin Zhao et al	:	
Application No. 10/861,262	:	DECISION GRANTING PETITION
Filed: June 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. AVB 101 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 30, 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 October 1, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (a request for continued examination (RCE), $790 fee therefor, and submission as required by 37 CFR 1.114); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 30, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1761 for processing the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received January 9, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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ONE BROADWAY
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of	:
Schwartz et al.	:
Application No. 10/861,271	: DECISION ON PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1662/4910711	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Petitioner submitted $130.00 towards payment of the $1370.00 petition fee. Accordingly, an additional $1240.00 will be charged to petitioner's deposit account as authorized. No further petition fees are due with a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer 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 Walsh
Petitions Examiner
Office of Petitions

---

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Patent No. 7,196,222	:
Issued : March 27, 2007	:
Application No. 10/861,271	: DECISION ON PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1662/4910711	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner did properly correct the "incorporation by reference" statement in the specification in the amendment submitted with the renewed petition. However, since the instant application matured into Patent No. 7,196,222 on March 27, 2007, a petition under 37 CFR 1.78(a)(3), ***along with submission of a Certificate of Correction***, is the appropriate avenue of relief to accept a late claim for the benefit of priority to prior-filed nonprovisional applications after issuance of the application into a patent. Petitioner did not include a Certificate of Correction with the instant petition.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a Certificate of Correction, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,196,222	:
Issued: March 27, 2007	: DECISION GRANTING PETITION
Application No. 10/861,271	: UNDER 37 CFR 1.78(a)(3) AND
Filed: June 4, 2004	: REQUEST FOR CERTIFICATE
Attorney Docket No. 1662/4910711	: OF CORRECTION

This is a decision on the renewed petition, filed June 19, 2008, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed June 4, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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 as 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/861,271	06/04/2004	1621	1560	1662/4910711	7	3

CONFIRMATION NO. 1289

KENYON & KENYON
One Broadway
New York, NY 10004

CORRECTED FILING RECEIPT

OC000000030949901

Date Mailed: 07/14/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Eduard Schwartz, Rechovot, ISRAEL;
Tamar Nidam, Yehud, ISRAEL;
Anita Liberman, Tel-Aviv, ISRAEL;
Marioara Mendelovici, Rechovot, ISRAEL;
Judith Aronhime, Rehovot, ISRAEL;

Power of Attorney:
Charles Brainard--21069
Steven Lee--31272

Domestic Priority data as claimed by applicant

This application is a CON of 10/198,546 07/18/2002 ABN
which is a DIV of 09/575,634 05/22/2000 PAT 6,495,721
which claims benefit of 60/182,159 02/14/2000
and is a CIP of 09/448,985 11/24/1999 PAT 6,500,987
which claims benefit of 60/147,888 08/09/1999

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/861,271**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

Title

SERTRALINE HYDROCHLORIDE FORM II AND METHODS FOR THE PREPARATION THEREOF

Preliminary Class

564

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
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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JAN 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Irvine	:	
Application No. 10/861,301	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 11314-1220	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed December 6, 2004.

The deficiency payment of $486 is hereby accepted.

The change of status to large entity has been entered and made of record.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

O I P E JC22
DEC 0 6 2004
PATENT & TRADEMARK OFFICE

IFW/DAC
DIVISION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2004 DEC -8 PM 1: 1

In Re Application of:

John E. Irvine

Application Serial No.: 10/861,301

Filing Date: 06/04/2004

For: **Elongated Structural Members for Use in Forming Barrier Walls**

Group Art Unit: 3671

Examiner: Mayo, Tara L.

Docket No. 11314-1220

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, Virginia 22313-1450, on 12-01-04.

Mary N. Kilgore
Signature – Mary N. Kilgore

RECEIVED
DEC 1 6 2004
OFFICE OF PETITIONS

NOTIFICATION OF GOOD FAITH ERROR ESTABLISHING SMALL ENTITY STATUS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.28(c), the owner of the above identified patent hereby notifies the Office of the good faith error in establishing small entity status for this patent application. We are enclosing a credit card authorization in the amount of $486.00 and an itemization of the deficiency payments pursuant to 37 C.F.R. 1.28 (c)(2)(ii) as follows:

12/13/2004 PTRICE 00000019 10861301
01 FC:1461 486.00 OP

Filing fee, 06/04/04:		
Filing fee for large entity on 12/01/04 =	$790.00	
Filing fee paid on 06/04/04 =	385.00	
Balance due =		$405.00
Filing fee for 4 additional claims,		
Large entity =	72.00	
Filing fee paid on 06/04/04 =	36.00	
Balance due =		36.00
Filing fee on 12/01/04 for 1 extra independent claim =	$ 88.00	
Filing fee paid on 06/04/04 =	43.00	
Balance due =		45.00
Total amount due		$486.00

AUTHORIZATION TO DEBIT ACCOUNT

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

Respectfully submitted,

George M. Thomas

George M. Thomas, Reg. No. 22,260

11/30/04

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW Mar-07

FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

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MAR 30 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7144868	:	
Issued: 12/05/2006	:	
Application No. 10/861311	:	
Filed: 06/04/2004	:	
Atty Docket No. 355491-2050	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 2 January, 2007.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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**.

Small entity status will no longer apply.

Telephone inquiries should 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
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Alexandria, VA 22313-1450
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SEP 20 2007

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of	:	
Lizhi ZHU	:	
Application No. 10/861,319	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 130209.524	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2007 and Supplemented on July 19, 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 $1,400 and the publication fee of $300, (2) the petition fee of $1,500; 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 to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6732.

This application is being referred to Publishing Division for processing into a patent.

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN M. SIRAGUSA
CARLSON GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD, SUITE 350
BIRMINGHAM, MI 48009

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)
2007P04202US; 60426-881 PUS1

First named inventor: Lizhi Zhu

Application No.: 10/861,319

Art Unit: 2838

Filed: June 4, 2004

Examiner: Han, Younghuie Jessica

Title: INTERLEAVED POWER CONVERTER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1700.00.

☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/John M. Siragusa/	July 19, 2007
Signature	Date
John M. Siragusa	46,174
Typed or printed name	Registration Number, if applicable
Carlson, Gaskey & Olds, P.C.	248-988-8360
Address	Telephone Number
400 West Maple Road, Suite 350, Birmingham, MI 48009	
Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Issue Fee Transmittal

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together wi pplicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

500 7590 02/08/2007

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Amy M. Spaulding (Depositor's name)
(Signature)
July 19, 2007 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/861,319	06/04/2004	Lizhi Zhu	130209.524	9370

TITLE OF INVENTION: INTERLEAVED POWER CONVERTER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$0	$1700	05/08/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
HAN, YOUNGHUIE JESSICA	2838	363-170000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Siemens VDO Automotive Corporation Auburn Hills, MI

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 50-1482 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature John Siragusa Date July 19, 2007

Typed or printed name John M. Siragusa Registration No. 46,174

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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JUN 25 2007

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 2007P04202US; 60426-881 PUS1

First named inventor: Lizhi Zhu

Application No.: 10/861,319

Art Unit: 2838

Filed: June 4, 2004

Examiner: Han, Younghule Jessica

Title: INTERLEAVED POWER CONVERTER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1700.00.

☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mark Douma, Esq.
1001 Manning Street
Great Falls, VA 22066

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OFFICE OF PETITIONS

In re Patent No. 7,062,820 :
Issued: June 20, 2006 :
Application No. 10/861,322 : DECISION ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. TOTEREG :

This is a decision on the petition filed May 30, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignment information on the front page of the above-identified patent by way of a certificate of correction.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioner submitted a certificate of correction (and fee) as required by 37 CFR 3.81(b). Further, the Office assignment records reflect that Bay State Cable Ties, LLC is an assignee of record. As petitioner has met the provisions of 37 CFR 3.81(b), the request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAMES D. IVEY
TRIBUTE TOWER
409 13TH STREET
11TH FLOOR
OAKLAND, CA 94612-2607

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Jonathan A. Sheena
Application No. 10/861,330
Filed: June 3, 2004
Attorney Docket No. P-2295

ON PETITION

This is a decision in response to the petition, filed November 23, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**. The petition was not accompanied by payment of the required fee.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. The fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

No consideration on the merits can be given that petition until the required fee is received.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS F. LENIHAM
TEKTRONIX, INC.
M/S 50-LAW
P.O. BOX 500
BEAVERTON, OR 97077-0001

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Pickerd, John J.	:	
Application No. 10/861,334	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 7758-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected formal drawings and the issue/publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALBIHNS STOCKHOLM AB
Linnegatan 2
BOX 5581
SE-114 85 Stockholm SWEDEN

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:	
FUKS, et al.	:	
Application No. 10/861,347	:	DECISION ON PETITION
Filed: June 07, 2004	:	TO WITHDRAW
Attorney Docket No. 72156-76202	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Leaving the employ of Customer No. 26288", do not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

STEVEN S. PAYNE
8027 ILIFF DR.
DUNN LORING, VA 22027

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OCT 01 2008

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Hans Irar Hedstrom :
Application No. 10/861,352 :
Filed: June 7, 2004 :
Attorney Docket No. 150-160 :

This is a decision on the petition filed May 29, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed April 17, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 18, 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 formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Steven S. Payne
P.O. Box 65024
Washington, DC 20035

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 30 2006

CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Corinna Sundermann et al	:
Serial No.: 10/861,426	: PETITION DECISION
Filed: June 7, 2004	:
Attorney Docket No.: 029310.54998	:

This is in response to the petition under 37 CFR 1.144, filed May 23, 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 June 7, 2004, and contained claims 1-29. In a first Office action, mailed December 9, 2005, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-8, 12 and 20-26, drawn to compounds;
Group II – Claims 9-11, drawn to compounds;
Group III – Claims 13-19, drawn to a process for preparation of compounds;
Group IV – Claims 27-28, drawn to a method of inhibiting NO synthase or migraine; and
Group V – Claim 29, drawn to a method of treating disease.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds and methods of making and using the compounds were separate and distinct inventions based on their different statutory classification and also that compounds within a Markush group could be divided based upon *In re Harnish* and *Ex parte Hozumi.* The examiner also stated that upon identification of a species the scope of the claimed compounds to be examined would be determined by the examiner. The possibility of rejoinder of product and method claims was also set forth.

Applicants replied on December 29, 2005, electing the compounds of Group I with partial traverse with respect to Group II only. Applicants argued that all of the compounds of Group II are encompassed by the genus of compounds in Group I and that they should not be divided,

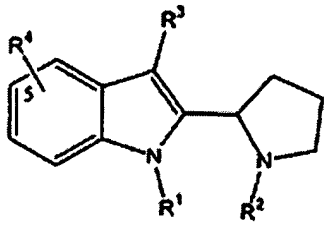
relying on M.P.E.P. 803.02 and *In re Weber*. Applicants further stated that it is their right, not the examiner's, to determine the scope of their invention. Applicants also elected a species, as required.

The examiner mailed a new Office action to applicants on February 23, 2006, acknowledging the election of Group I and the species, but maintaining the requirement, but not making it Final. The examiner argued that rejoining Groups I and II would impose a serious search burden on the examiner. The examiner also indicated that rejoinder of method claims would be considered when compound claims became allowable. The examiner then defined the values of variables R^1-R^4 based on the species elected and limited the scope of examination of the compounds thereto. Claims 1-8, 12 and 20-26 were then rejected under 35 U.S.C. 103(a) as unpatentable over Street. Claims 1-8, 12 and 20-26 were also rejected for obvious double patenting over SN 10/916,633.

This petition was filed on May 23, 2006, traversing the restriction requirement as being in error. It is noted that the restriction requirement was not made Final in the last Office action, but is a repeated action by examiner and, therefore, subject to review by petition under 37 CFR 1.181. Applicants also replied to the Office action on the same date canceling claims 13-19 and 27-29, but making no other amendments and responding to each rejection.

DISCUSSION

Applicants' petition is directed only to the restriction between Groups I and II, both Groups being directed to compounds. A review of the claims, as filed, shows that they are directed to compounds based on the following structure:



As set forth, Group I was directed to compounds classified in Classes 546, 548 and 514, numerous subclasses, and Group II was directed to compounds classified in Class 546, numerous subclasses. No other distinction between the two Groups was set forth.

As can be seen above the basic structure is a 2-pyrrolidine-indole structure with four variable groups attached to it. Claim 1 is a generic claim encompassing all of the compounds claimed. Claims 9-11 (Group II) are dependent directly or indirectly on claim 1 and form a subgenus of the genus set forth in Claim 1. The examiner has set forth no specific reason as to why Groups I and II are independent and distinct and, therefore, restrictable, relying only on broad generalities. Thus the examiner's requirement for restriction with respect to Groups I and II is deficient and must be withdrawn. Further, the examiner's argument with respect to search burden is not a consideration under M.P.E.P. 803.02 for Markush groups. Additionally, the examiner's' reliance

on *In re Harnish* or *Ex parte Hozumi* to support restriction within a Markush group is misplaced in this instance, since there is only one common core.

Consonant with review of the restriction requirement it is noted that the examiner has further limited the examination of applicants' claimed compounds to a subgenus set forth on page 4 of the last Office action. Such is not in accordance with M.P.E.P. 803.02 which requires an examiner, following an election of species, to examine and determine the patentability of that species. Should the species be found allowable, the examination must be expanded to a reasonable number of related species. (It is unclear whether this has been done here.) If all related species are found to be patentable, then the entire genus is considered patentable also. The examiner is directed to not usurp applicants' right to claim the invention desired by limiting the compounds examined to an examiner defined subgenus. Based upon the prior art applied, applicants may choose to restrict or limit their claims to less than the genus now encompassed by the claims, but the examiner may not make or enforce such a limitation.

DECISION

The petition is **GRANTED.** Claims 1-12 and 20-26 are designated as a single Group within which applicants have identified a species for examination purposes.

The application will be forwarded to the examiner for consideration of applicants' reply filed May 23, 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

George C. Elliott.
Director, Technology Center 1600

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CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Corinna Sundermann et al	:
Serial No.: 10/861,426	: PETITION DECISION
Filed: June 7, 2004	:
Attorney Docket No.: 029310.54998	:

This is in response to the petition under 37 CFR 1.144, filed May 23, 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 June 7, 2004, and contained claims 1-29. In a first Office action, mailed December 9, 2005, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-8, 12 and 20-26, drawn to compounds;
Group II – Claims 9-11, drawn to compounds;
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Group IV – Claims 27-28, drawn to a method of inhibiting NO synthase or migraine; and
Group V – Claim 29, drawn to a method of treating disease.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds and methods of making and using the compounds were separate and distinct inventions based on their different statutory classification and also that compounds within a Markush group could be divided base upon *In re Harnish* and *Ex parte Hozumi.* The examiner also stated that upon identification of a species the scope of the claimed compounds would be limited by the examiner. The possibility of rejoinder of product and method claims was also set forth.

Applicants replied on December 29, 2005, electing the compounds of Group I with partial traverse with respect to Group II only. Applicants argued that all of the compounds of Group II are encompassed by the generic compounds of Group I and that they should not be divided,

relying on M.P.E.P. 803.02 and *In re Weber*. Applicants further stated that it is their right, not the examiner's, to determine the scope of their invention. Applicants also elected a species, as required.

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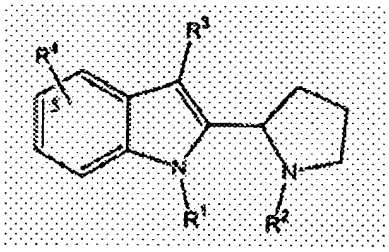
This petition was filed on May 23, 2006, traversing the restriction requirement as being in error. It is noted that the restriction requirement was not made Final in the last Office action, but is a repeated action by examiner and, therefore, subject to review by petition under 37 CFR 1.181. Applicants also replied to the Office action on the same date canceling claims 13-19 and 27-29, but making no other amendments and responding to each rejection.

DISCUSSION

Applicants' petition is directed only to the restriction between Groups I and II, both being directed to compounds. A review of the claims, as filed, shows that they are directed to compounds based on the following structure:



As set forth, Group I was directed to compounds classified in Classes 546, 548 and 514, numerous subclasses, and Group II was directed to compounds classified in Class 546, numerous subclasses. No other distinction between the two Groups was set forth.

As can be seen above the basic structure is a 2-pyrrolidine-indole structure with four variable groups attached to it. Claim 1 is a generic claim encompassing all of the compounds claimed. Claims 9-11 (Group II) are dependent directly or indirectly on claim 1 and form a subgenus of the genus set forth in Claim 1. The examiner has set forth no specific reason as to why Groups I and II are independent and distinct and, therefore, restrictable, relying only on broad generalities. Thus the examiner's requirement for restriction with respect to Groups I and II is deficient and must be withdrawn. Further, the examiner's argument with respect to search burden is not a consideration under M.P.E.P. 803.02 for Markush groups. Additionally, the examiner's' reliance

on *In re Harnish* or *Ex parte Hozumi* to support restriction within a Markush group is misplaced in this instance.

Consonant with review of the restriction requirement it is noted that the examiner has further limited the examination of applicants' claimed compounds to a subgenus set forth on page 4 of the last Office action. Such is not in accordance with M.P.E.P. 803.02 which requires an examiner, following an election of species, to examine and determine the patentability of that species. Should the species be found allowable, the examination must be expanded to a reasonable number of related species. (It is unclear whether this has been done here.) If all related species are found to be patentable, then the entire genus is considered patentable also. The examiner is directed to not usurp applicants' right to claim the invention desired by limiting the compounds examined to a defined subgenus. Based upon the prior art applied, applicants may choose to restrict or limit their claims to less than the genus now encompassed by the claims, but the examiner may not make or enforce such a limitation.

DECISION

The petition is **GRANTED.** Claims 1-12 and 20-26 are designated as a single Group within which applicants have identified a species for examination purposes.

The application will be forwarded to the examiner for consideration of applicants' reply filed May 23, 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

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Mark J. Pino
Connolly Bove Lodge & Hutz LLP
Suite 800
1990 M Street NW
Washington D.C. 20036-3425

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JUL 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Devron R. Averett et al.	:	
Application No. 10/861,430	:	DECISION ON PETITION
Filed: June 7, 2004	:	TO WITHDRAW
Attorney Docket No. 22222-00004-US2	:	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 22, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **transfer of responsibility for prosecution**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Arthur Canonica
Novartis International AG
Basel, Switzerland CH-4002

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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 12 2004

G. F. Gallinger
7420 Milner Dr.
Colorado Springs, CO 80920

In re Application of	:	
Genadijus Sokolovos	:	
Serial No.: 10/861,431	:	DECISION ON PETITION
Filed: June 7, 2004	:	
For: Body Vibration Generator Having	:	
Attachments for Exercises to Target Body	:	
Regions	:	

This is in response to applicants' petition filed June 7, 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. 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 John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director,
Technology Center 3700/2900

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DAVID J. PAUL
MICRON TECHNOLOGY, INC.
MS 1-525
8000 S FEDERAL WAY
BOISE, ID 83716

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Cho et al.	:	
Application No. 10/861,438	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 1999-0589.02/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 23, 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 and payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Takeshi Nishimura	:	
Application No. 10/861,444	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No.: OHT-0024	:	
Title of Invention: Key Sheet	:	
	:	

This is a decision on the petition filed August 18, 2004, requesting, that a Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed July 30, 2004, be withdrawn.

The application was filed on June 7, 2004. However, on July 30, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 7, 2004 but figures 11 and 12 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 11 and 12 were filed on June 7, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists " 25 sheets of formal drawings (FIGS.1-25)". The petition is further accompanied by a copy of figures 11 and 12 as described in the specification.

Applicant's postcard receipt is prima facie evidence that 25 sheets of drawings, including figures 11 and 12 were received on June 7, 2004, but two pages containing figures 11 and 12 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figures 11 and 12 were received on June 7, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. No petition fee is due. Accordingly, deposit account 18-0013 will be refunded the $130.00 petition fee.

Since figures 11 and 12 as described in the specification cannot

Since figures 11 and 12 as described in the specification cannot be located in the Office, figures 11 and 12 supplied on August 18, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 7, 2004, using substitute figures 11 and 12 supplied on August 18, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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AUG 15 2008

In re Application of	:	
Arai et al.	:	
Application No.: 10/861471	:	ON PETITION
Filing or 371(c) Date: 06/07/2004	:	
Pat. Num./Pub. Num: 7317475	:	
Issue Date: 01/08/2008	:	
Attorney Docket Number:	:	
1232-4537US1	:	

This is a decision on the Petition for Duplicate Letters Patent Under 37 C.F.R. § 1.182, filed June 11, 2008. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer, in the Office of Data Management at (703) 308-9250, Ext. 119.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: Niomi Farmer
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

Mail Date: 08/04/2010

Applicant	: Roland Guethaus	: DECISION ON REQUEST FOR
Patent Number	: 7643454	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/861,475	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JEFFREY L. IHNEN
ROTHWELL FIGG ERNST & MANBECK
1425 K STREET, NW, SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Mark T. Keating et al :
Application No. 10/861,520 : NOTICE
Filed: June 7, 2004 :
Attorney Docket No. 2323-167

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

In re Application of :
Bedford et al : DECISION GRANTED-IN-PART
Application No. 10/861,542 :
Filed: June 4, 2004 :
Attorney Docket No.:MAT 3J8 :

This is a decision on the petition filed October 22, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed July 28, 2004, be withdrawn.

The application was filed on June 4, 2004. However, on July 28, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 4, 2004 but figures 5A,5B, 6A and 6B as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 5A, 5B, 6A and 6B were filed on June 4, 2004. In support, the petition is accompanied by a copy of applicants' return postcard which lists " 3 sheets of drawings" . The petition is further accompanied by a copy of figures 5A, 5B, 6A and 6B .

Applicant's postcard receipt is prima facie evidence that three sheets of drawings including figures 5A, 5B, 6A and 6B as described in the specification were received on June 4, 2004 but one page containing figures 5A, 5B, 6A and 6B is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figures 5A, 5B, 6A and 6B were received on June 4, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted figures. However, the Notice was correct regarding the

requirement to submit an executed oath or declaration. No petition fee is due. Deposit account 11-1540 will be refunded the $130.00 petition fee.

Since figures 5A, 5B, 6A and 6B as described in the specification cannot be located in the Office, figures 5A, 5B, 6A and 6B supplied on October 22, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 4, 2004, using the 1 sheet of drawings containing 5A, 5B, 6A and 6B submitted on October 22, 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

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Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas TX 75201

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OFFICE OF PETITIONS

In re Application of :
Zhimov, et al. :
Application No. 10/861,566 : ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. 41700-P001C1 :
For: METHOD AND APPARATUS FOR DETECTING PHYSIOLOGIC SIGNALS

This is a decision on the petition, filed June 18, 2007 (certificate of mailing date June 14, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 6, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 7, 2007. A Notice of Abandonment was mailed on June 8, 2007.

Applicants have submitted an amendment in reply to the October 6, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 6, 2006 non-final Office action, and the $750.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3766 for consideration of the amendment filed on June 18, 2007 (certificate of mailing date June 14, 2007).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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Technology Center 2100

In re Application of:
Ulrich WIEDMANN, et al.
Application No. 10/861,576
Filed: June 4, 2004
For: METHODS AND SYSTEMS OF REMOTE AUTHENTICATION FOR COMPUTER NETWORKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed June 13, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on June 29 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Zilka-Kotab, P.C. as the attorney(s) of record of the instant application. The Power of Attorney of June 29, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Zilka-Kotab, P.C.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

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FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of
Harry Peter Weinrib, et. al.
Application No. 10/861,588
Filed: June 4, 2004
Attorney Docket No. 78961 (0558)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed, March 17, 2006, which set a shortened statutory period for reply of one (1) months or 30 days. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on April 18, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "under this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2.5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 18, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as FITCH, EVEN, TABIN & FLANNERY was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (almost 2.5 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at FITCH, EVEN, TABIN & FLANNERY and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Mark A. Hamill 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 copy of the decision on the petition will be mailed to the address on the petition.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

for

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Mark A. Hamill
45 South Park Boulevard-Ste. 205
Glen Ellyn, Illinois 60137

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Gregory Smith & Associates
3900 Newpark Mall Road, 3rd Floor
Newark, CA 94560

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Dong-Ho Oh, et al.	:	
Application No. 10/861,597	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 139-037U	:	

This is in response to the "Petition Under 37 CFR 1.47(a), filed November 1, 2004 and supplemented on November 8, 2004.

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(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (3) set forth above.

Petitioner has not submitted the $200 fee required for filing the petition. The merits of the instant petition cannot be addressed until payment of the petition fee is remitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Gregory Smith & Associates
3900 Newpark Mall Road, 3rd Floor
Newark, CA 94560

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APR 25 2005

OFFICE OF PETITIONS

In re Application of	:
Dong-Ho Oh, et al.	: DECISION NOTING JOINDER OF
Application No. 10/861,597	: INVENTOR AND PETITION
Filed: June 4, 2004	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. 139-037	:

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.47(a) filed March 21, 2005.

Papers filed on November 3, 2004 and January 20, 2005 included oath/declarations signed by previously non-signing inventors, Mr. Seong Woo Kang and Mr. Frank Ivan Morris, in compliance with 37 CFR 1.63.

In view thereof, the petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventors, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

The application file is being forwarded to the Office of Initial Patent Examination to complete processing of the application.

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/861,600	06/04/2004	1764	770	LMS-0402	3	13	1

CONFIRMATION NO. 2001

CORRECTED FILING RECEIPT

OC000000013552887

27810
EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

Date Mailed: 08/16/2004

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)

Ramesh Varadaraj, Flemington, NJ;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/348,371 01/21/2003
which is a DIV of 09/803,734 03/09/2001 PAT 6,544,411

Foreign Applications

If Required, Foreign Filing License Granted: 07/24/2004

Projected Publication Date: 11/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

Low viscosity hydrocarbon oils by sonic treatment

Preliminary Class

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P. O. Box 900
Annandale NJ 08801-0900

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cartwright :
Application No. 10/861,601 :
Filed: June 4, 2004 :
Attorney Docket No. P2003J075 US2 :

This is a decision on the petition filed September 23, 2004, to accord the above-identified application a filing date of June 4, 2004, instead of June 3, 2004.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of June 4, 2004.

The Office of Initial Patent Examination will be informed of the instant decision so that it may take steps to change the filing date in Office records to June 4, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Ban Loh et al
Application No. 10/861,639
Filed: June 4, 2004
Attorney Docket No. P0375

This is a decision on the petition, filed May 2, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).

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OFFICE OF PETITIONS

In re Application of

LOH, Ban P. et al.
Application No. 10/861,639
Filed: June 04, 2004
Attorney Docket No. **P0375**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Terri William
Petitions Examiner
Office of Petitions

cc: **JENKIN, WILSON, TAYLOR & HUNT**
UNIVERSITY TOWER, SUITE 1200
3100 TOWER BOULEVARD
DURHAM, NC 27707

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FOLEY & LARDNER LLP
11250 EL CAMINO REAL
SAN DIEGO, CA 92130

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In re Application of :
Aya **JAKOBOVITS, et al.** :
Application No. 10/861,662 : DECISION ON PETITION TO
Filed: June 4, 2004 : WITHDRAW ROM RECORD
Attorney Docket No. **GNE-0160 R3-1C1** :

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 October 1, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Leslie Overman of Foley & Lardner, LLP 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 571-272-7253.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **GOODWIN PROCTER, LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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OFFICE OF PETITIONS

In re Application of	:	
O'Neil et al.	:	
Application No. 10/861,671	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. FA1181USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed May 30, 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 August 31, 2008. A Notice of Abandonment was mailed December 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 Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3751 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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1288 VALLEY FORGE ROAD
P.O. BOX 750
VALLEY FORGE, PA 19482-0750

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OFFICE OF PETITIONS

In re Application of :
Peter V. RADATTI :
Application No. 10/861,672 : ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. E-2554 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 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 August 2, 2006 . The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay have been received.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2131 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

cc: FRANK J. BONINI, JR.
P.O. BOX 750
VALLEY FORGE, PA 19482-0750

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SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Alain Vergnes	: DECISION ON REQUEST FOR
Patent Number	: 7661011	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/861,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1457** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
BROWN, et al.	:	
Application No. 10/861,684	:	DECISION ON PETITION
Filed: June 4, 2004	:	TO WITHDRAW
Attorney Docket No. **61244.00003**	:	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 22, 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 Cameron Kerrigan on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Sean D. Brown at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SEAN D. BROWN**
VALUCIRCLE, INC.
926 POWELL STREET, SUITE 41
SAN FRANCISCO, CA 94108

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222 S. RIVERSIDE PLAZA
SUITE 1410
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Bryan Kaleta	:	
Application No. 10/861,705	:	DECISION ON PETITION
Filed: June 3, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KALATA 6	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed March 24, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1744 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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WINTON HILL BUSINESS CENTER - BOX 412
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CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of Simons et al.	:	
Application No. 10/861,709	:	Decision on Petition
Filing Date: June 4, 2004	:	
Attorney Docket No. 9658	:	

This is a decision on the petition under 37 CFR 1.181, filed June 15, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to timely respond to the Office action of November 7, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, a reply was due on or before December 7, 2006.

The Office did not receive a reply to the November 7, 2006 Office action. As a result, a Notice of Abandonment was mailed May 25, 2007.

Petitioner has supplied evidence establishing non-receipt of the November 7, 2006 Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3761 will be informed of the instant decision. Thereafter, the Technology Center will mail a new copy of the November 7, 2006 Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Osborn et al.	:	
Application No. 10/861,711	:	DECISION ON PETITION
Filed: 4 June, 2004	:	
Attorney Docket No. 9656	:	

This is a decision on the petition filed on 25 September, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 17 May, 2006, for failure to timely respond to the non-final Office action mailed on 16 February, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a)

---

[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)).

were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

This application is being referred to Technology Center Art Unit 2855 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Uday Shah, et al. :
Application No. 10/861,727 : ON PETITION
Filed: June 3, 2004 :
Attorney Docket No. 042390.P18608 :

This is a decision in response to the petition, filed September 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2006, which set a shortened statutory period for reply. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On August 14, 2006, a Notice of Abandonment was mailed. In response, on September 15, 2006 the present petition was filed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $2,160 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2822 for consideration of the response filed September 15, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ASHOK TANKHA
OF COUNSEL, LIPTON, WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
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In re Application of	:	
Malit, Romeo Fernando	:	
Application No. 10/861,734	:	ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. Malit01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to the Restriction Requirement; (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 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
10/861,738	06/04/2004	Mark Eyolfson	2269-3001.4US (96-0009.04	1498

24247 7590 08/23/2005

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

EXAMINER
EVANS, FANNIE L

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Paper No. 08232005

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

AUG 2 3 2005

In re Application of EYOLFSON et al
Application No.: 10/861,738
Filed: June 4, 2004
Title: METHOD AND APPARATUS FOR AUTOMATED, IN SITU MATERIAL DETECTION USING FILTERED FLUORESCED, REFLECTED, OR ABSORBED LIGHT

WITHDRAWAL FROM ISSUE
37 CFR §1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. §1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed Gregory Toatley, Supervisory Patent Examiner, at (571) 272-2059.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Janice A. Falcone

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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OCT 13 2006

OFFICE OF PETITIONS

In re Application of	:	
DANITZ, et al.	:	
Application No. 10/861,757	:	DECISION ON PETITION
Filed: June 4, 2004	:	TO WITHDRAW
Attorney Docket No. 506512002020	:	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, 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
Petitions Examiner
Office of Petitions

cc: George A. Coury
BACHMAN & LaPOINTE PC
900 Chapel Street, Suite 1201
New Haven, CT 06510

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Genelabs Technologies, Inc.
c/o Foley & Lardner LLP
975 Page Mill Road
Palo Alto CA 94304-1013

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Patent No. 7,304,085 :
Issued: December 4, 2007 :
Application No. 10/861,765 : PATENT TERM ADJUSTMENT
Filed: June 4, 2004 :
Dkt. No.: 355491-1601(G084US) :

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed August 16, 2007 and the petition regarding patent term adjustment filed December 18, 2007. The letter regarding patent term adjustment filed On August 16, 2007 will be considered as an application for patent term adjustment request to 37 CFR 1.705(b).

The applications for patent term adjustment ("PTA") under 37 CFR 1.705(b) and 1.705(d) are GRANTED.

The above-identified application matured into U.S. Patent No. 7,304,085 on December 4, 2007. Prior to the issuance of the patent, a timely filed application for patent term adjustment under 37 CFR 1.705(b) was filed. The patent issued prior to a decision on the application for patent term adjustment. The instant application for patent term adjustment was timely filed December 18, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of zero days. Patentee argues that the patent is entitled to an adjustment of 65 days.

Patentees do not dispute the adjustment of 127 days under 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement on January 6, 2006.

Patentees argue that the reduction of 63 days in connection with the reply filed September 5, 2006 was improperly calculated. Patentees argue that the proper reduction in this regard is 62 days.

A review of the record confirms that the proper reduction in this regard is 62 days in accordance with 37 CFR 1.704(b). The reduction commenced July 6, 2006, the day after the date that is

three months after the date that the non-final Office action was mailed, and ended September 5, 2006, the date that the reply was filed in accordance with 37 CFR 1.10.

Further, the Office errantly reduced the adjustment 111 days in connection with the application for patent term adjustment submitted August 16, 2007. As an application for patent term adjustment is not a failure to engage in reasonable efforts to conclude prosecution, this reduction has been removed. See 37 CFR 1.704(e).

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 65 days, as argued by patentees (adjustment totaling 127 days less reductions totaling 62 days).

The Office acknowledges receipt of the required PTA application fee of $200.00 under 37 CFR 1.705(b). Since the sole reason for the petition regarding PTA filed under 37 CFR 1.705(d) is the submission of the good faith and candor letter, the Office hereby waives the fee requirement and an additional $200.00 will not be assessed.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 65 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,304,085 B2

DATED : December 4, 2007

INVENTOR(S) : Roberts, 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 0 days

Delete the phrase "by 0 days" and insert – by 65 days--

Day : Thursday
Date: 9/18/2008

PALM INTRANET

Time: 11:56:15

PTA Calculations for Application: 10/861765			
Application Filing Date:	06/04/2004	PTO Delay (PTO):	127
Issue Date of Patent:	12/04/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	174
Post-Issue Petitions:	0	Total PTA (days):	65
PTO Delay Adjustment:	112		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	09/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
81	09/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	174		
75	12/04/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
74	10/29/2007	EXPORT TO FINAL DATA CAPTURE			
73	10/26/2007	DISPATCH TO FDC			
72	10/25/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
71	10/24/2007	ISSUE FEE PAYMENT VERIFIED			
70	10/24/2007	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
69	10/24/2007	ISSUE FEE PAYMENT RECEIVED			
68	08/16/2007	MISCELLANEOUS INCOMING LETTER		111	
67	08/31/2007	FINISHED INITIAL DATA CAPTURE			
66	08/10/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
65	07/27/2007	EXPORT TO INITIAL DATA CAPTURE			
64	07/24/2007	MAIL NOTICE OF ALLOWANCE			
63	07/24/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
62	07/24/2007	MAIL EXAMINER'S AMENDMENT			
61	07/23/2007	ISSUE REVISION COMPLETED			
60	07/23/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	07/23/2007	DOCUMENT VERIFICATION			
58	07/23/2007	EXAMINER'S AMENDMENT COMMUNICATION			
57	07/23/2007	NOTICE OF ALLOWABILITY			
56	07/17/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

54	07/17/2007	DATE FORWARDED TO EXAMINER			
53	07/09/2007	RESPONSE AFTER NON-FINAL ACTION			
52	04/18/2007	MAIL NON-FINAL REJECTION			
51	04/16/2007	NON-FINAL REJECTION			
50	04/05/2007	DATE FORWARDED TO EXAMINER			
49	04/03/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	04/05/2007	DATE FORWARDED TO EXAMINER			
47	04/03/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	04/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	04/03/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	02/15/2007	MAIL ADVISORY ACTION (PTOL - 303)			
43	02/13/2007	ADVISORY ACTION (PTOL-303)			
42	02/05/2007	NOTICE OF APPEAL FILED			
41	02/09/2007	DATE FORWARDED TO EXAMINER			
40	02/05/2007	AMENDMENT AFTER FINAL REJECTION			
39	11/22/2006	MAIL FINAL REJECTION (PTOL - 326)			
38	11/20/2006	FINAL REJECTION			
37	09/14/2006	DATE FORWARDED TO EXAMINER			
36	09/06/2006	RESPONSE AFTER NON-FINAL ACTION		63	34
35	09/06/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	04/05/2006	MAIL NON-FINAL REJECTION			
33	04/03/2006	NON-FINAL REJECTION			
32	02/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	01/30/2006	DATE FORWARDED TO EXAMINER			
29	01/06/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
28	12/09/2005	MAIL RESTRICTION REQUIREMENT	127		-1
27	12/07/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
26	08/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	08/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	02/18/2005	REFERENCE CAPTURE ON IDS			
23.7	02/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
23	02/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22.7	12/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/05/2005	APPLICATION RETURN FROM OIPE			
20	04/05/2005	APPLICATION IS NOW COMPLETE			
19	04/05/2005	APPLICATION RETURN TO OIPE			
18	03/29/2005	APPLICATION DISPATCHED FROM OIPE			
17	03/29/2005	APPLICATION IS NOW COMPLETE			
16	03/08/2005	ADDITIONAL APPLICATION FILING FEES			
15	03/08/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
14	03/18/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
13	02/15/2005	SEQUENCE ERRORS			
10	10/14/2004	ADDITIONAL APPLICATION FILING FEES			
9	10/14/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
8	10/14/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	10/29/2004	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
6	08/11/2004	SEQUENCE ERRORS			
5	08/02/2004	CLEARED BY L&R (LARS)			
4	07/22/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	07/22/2004	CASE CLASSIFIED BY OIPE			
2	07/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/04/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of

MINKSY, Steven et al.
Application No. 10/861,777
Filed: June 04, 2004
Attorney Docket No. **ISAA0109**

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 01, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Glenn on behalf of all attorneys of record who are associated with customer No. 22862. 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.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **STEVEN MINSKY**
53 THOMAS PARK, #7
BOSTON, MA 02127

cc: **JAMES CLEARY**
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Patent No. : 7,428,519 B2
Inventor(s) :Minsky et al.
Issued : September 23,2008
Title : RELATIONAL LOGIC MANAGEMENT SYSTEM
Docket No. : 35006-549001US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

Ennis Young
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 117** or (703) 305-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Mail Date: 04/21/2010

Applicant	: David Reuter	: DECISION ON REQUEST FOR
Patent Number	: 7635387	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/861,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: YAGISAWA, et al.
Application No. 10/861,792
Filed: June 7, 2004
For: DISK ARRAY SYSTEM AND INTERFACE CONVERTER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed November 17, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **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

SDL: 04/04/2005

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MATTINGLY STANGER MALUR & BRUNDIDGE PC
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Ikuya Yagisawa et al	:
Application No. 10/861,792	: DECISION GRANTING PETITION
Filed: June 7, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1213.43918X00	:

This is a decision on the petition, filed January 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 2182 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 07/12/2010

Applicant	: David Dice	: DECISION ON REQUEST FOR
Patent Number	: 7644409	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/861,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1615** 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 : January 27 2009

TO SPE OF : ART UNIT ~~[illegible]~~ 2167

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/861796 Patent No.: 7272602

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved In Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

2167
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

Paper No. None

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of Gregory A. Hill et al. Application No. 10/861,798 Filed: June 4, 2004 Attorney Docket Number: VTN 5025 Title: SILICONE HYDROGELS HAVING CONSISTENT CONCENTRATIONS OF MULTI-FUNCTIONAL POLYSILOXANES	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed May 26, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 4, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

became abandoned on October 5, 2004. A notice of abandonment was mailed on April 20, 2005.

With the present petition, Petitioner has submitted a declaration, the surcharge associated with the late submission of the same, the petition fee, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Practitioner's Docket No.: Velleman.S-02 *Patent*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. Number: 10861820
Filing Date: 6/3/04
First Applicant: Stephan G. Velleman
Examiner/ AU: J. Allergut/1733
Application Title: Prepreg Forming Method

RECEIVED
CENTRAL FAX CENTER
SEP 18 2005

PETITION GRANTED
Richard Crispino
Special Program Examiner
TC 1700
SEP 28 2005

PETITION TO MAKE SPECIAL MPEP 708.02 (IV)

Mail Stop: Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Commissioner for Patents:

Pursuant to 37 C.F.R. Section 1.102(c) and M.P.E.P. 708.02 (IV) (Accelerated Examination on the basis of Age), applicant hereby files this petition in the United States Patent and Trademark Office to make special the prosecution in the above-identified case. This petition is based on the grounds that the inventor is at least 65 years of age and there is no fee required for this petition.

I declare that I was born on December 25, 1939 and have the right to accelerated examination of my application identified above.

Signature: _____ Date: FEB/26/05
Steven G. Velleman

Very respectfully,

_____
Gene Scott, 37,930 Agent of record

Please direct all communications to Customer Number 22197: Mr. Gene Scott, Patent Law & Venture Group, 3140 Red Hill Avenue, Suite 150, Costa Mesa, CA 92626-3440. Phone: (714) 668-1900; Fax: (714) 668-0583

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.
10/861,831	06/04/2004	Jim Doucet	674510-2006.1	1680

20999 7590 09/19/2008
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER
PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
09/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

9-19-08
Mailed:

In re application of	:	
Doucet	:	DECISION ON
Serial No. 10/861,831	:	PETITION
Filed: June 4, 2004	:	
For: SHORTENING SYSTEM		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed February 11, 2008.

On June 21, 2007, a non-final Office action was mailed by the examiner. Applicant responded to this Office action with a response filed on December 20, 2007. On February 11, 2008, a final Office action was mailed.

DECISION

37 CFR § 1.181 Petition to the Director.

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The instant petition was submitted by Petitioner on June 11, 2008 which falls more than **two** months after the date of the Final Office Action (February 11, 2008) thereby making the instant petition untimely under 37 CFR 1.181 (f).
The Petition is **DISMISSED**.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Frommer Lawrence & Haug
745 Fifth Avenue – 10th FL.
New York, NY 10151

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

COPY MAILED
FEB 16 2010

In re Patent No. 7,059,984	:	
Issue Date: June 13, 2006	:	
Application No. 10/861,838	:	ON PETITION
Filed: June 5, 2004	:	
Attorney Docket No. 1590-100US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/19/08

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 10861867 Patent No.: 7395290

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

Changes to claims Approved?

DAVID IRVINE
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: All changes apply EXCEPT:
In column 22, line 7; and
In column 24, line 29.

/TM/
10/29/08

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,395,290 B2

APPLICATION NO.: 10/861,867

ISSUE DATE : July 1, 2008

INVENTOR(S) : Moore

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:

On the ~~face~~ title page, in field (57), under "Abstract", in column 2, line 4, delete "fitter" and insert - - filter - -, therefor.

In column 20, line 66, in Claim 4, after "applied" delete "to an" and insert - - as an - -, therefor.

In column 21, line 23, in Claim 8, after "frequency" delete "of" and insert - - or - -, therefor.

In column 21, line 64, in Claim 14, after "the plurality of" delete "the".

In column 22, line 7, in Claim 14, delete "output." and insert - - output port of the digital notch filter. - -, therefor.

In column 22, line 24, in Claim 17, delete "The" and insert - - the - -, therefor.

In column 22, line 25, in Claim 17, delete "to sign" and insert - - in sign - -, therefor.

In column 22, line 46, in Claim 22, delete "(NC0)" and insert - - (NCO) - -, therefor.

In column 24, line 13, in Claim 34, delete "a" and insert - - of - -, therefor.

In column 24, line 29, in Claim 36, delete "signal by a" and insert - - signal comprises shifting the spectrum of the input signal after filtering by a - -, therefor.

ALL changes apply EXCEPT:

In column 22, line 7; and

In column 24, line 29.

/TM/

10/29/08

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

COPY MAILED

AUG 03 2009

OFFICE OF PETITIONS

In re Application of :
KANAMATHAREDDY et al. :
Application No. 10/861,881 : ON APPLICATION FOR
Filed: June 4, 2004 : PATENT TERM ADJUSTMENT
Atty. Docket No. 01435.064US1 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b), filed July 6, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred sixty-seven (667) days, not two hundred fifty-four (254) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

---

[1] For example, if applicants dispute 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 applicants 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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

Mail Date: 04/22/2010

Applicant	: Suseela Kanamathareddy	: DECISION ON REQUEST FOR
Patent Number	: 7662864	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/861,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **803** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100713

DATE : July 13, 2010

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7,662,864

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:

First Applicant tried to alter the claim priority date from April 10th 2003 to June 4th 2003 as earlier filed. The change in priority date creates a new priority date for the instant application and would require a new search for the new priority date. Therefore, alteration of priority date is denied.
Applicant also requested to delete the duplicated references. However, Examiner did not find any duplicate references in the submitted IDS forms. Therefore, deletion of references is denied.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

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.
10/861,881	06/04/2004	Suseela Kanamathareddy	01435.064US1	2185

53137 7590 07/22/2010
VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

EXAMINER
SAMALA, JAGADISHWAR RAO

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
07/22/2010	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100719

DATE : July 13, 2010

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7,662,864

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:

The Item (60) U.S. Application Data, It is OK to make a chnage to the provisional application to 60/475,766, filed on June 4, 2003.
Its OK to delete "Item (63) Continuation-in-part of application No. 10/823,435 filed on April 12, 2004, now abandoned.
Lastly, the duplicated references that are appearing on the Title page of the printed patent in Item (56) can be deleted.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application of:	:	
Opie et al.	:	
Application No. 10/861,889	:	DECISION ON
Filed: June 3, 2004	:	PETITION
For: RACE GUIDE WIRE CONTAINER	:	

This is a decision on the Petition, filed September 30, 2004, in response to a Notice to File Missing Parts of Nonprovisional Application.

The application was filed on June 3, 2004. However, on July 27, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of June 3, 2004, and advising applicants that Figure 2c described in the specification appeared to have been omitted from the application.

In response, the present petition was filed. The petition is accompanied by a formal drawing correction numbering a heretofore un-numbered Figure as Figure 2c. The petition explains that the correct Figure 2c was filed on June 3, 2004 on page 2 of 9 pages of drawing Figures; however, the Figure was simply not labeled.

It is obvious from the petition that no drawing was actually missing on June 3, 2004. Rather, the drawing of Fig. 2c was simply not labeled as a result of Petitioner's filing error. However, the Notice, mailed July 27, 2004, was correct in stating that Figure 2c described in the specification appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

A preliminary amendment adding the label Fig. 2c to the mislabeled drawing figure should be filed prior to first action on the merits.

The application file is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary. An electronic mail message will be sent to the Office of Initial Patent Examination for further processing with a filing date of June 3, 2004, using the drawings filed on that date.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Squire, Sanders & Dempsey, L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

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SEP 11 2008

In re Application of	:	
John C. Opie, et. al.	:	
Application No. 10/861,889	:	ON PETITION
Filed: June 3, 2004	:	
Attorney Docket No. 60458.00027	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 5, 2008, to revive the above-identified application.

This application became abandoned for failure to file a reply to the final Office action mailed on June 5, 2007. A Notice of Abandonment was mailed on January 9, 2008.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Bradford A. Donovan 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. If Mr. Donovan desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in

fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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 a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $405 filing fee and an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3728, 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

cc: Bradford A. Donovan
Snell & Wilmer, LLP
400 E. Van Buren - One Arizona Center
Phoenix, AZ 85004

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Osha & May L.L.P.
Suite 2800
1221 McKinney St.
Houston TX 77010

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Akira Nakajima et al.	:	
Application No.	:	DECISION ON PETITION
Filed: 10/861,896	:	
Attorney Docket No. 15115/126001	:	

This is a decision on the Petition For Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a), filed January 15, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 5, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 24, 2008.

Petitioner asserts that the Office action dated June 5, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition fee of $540 for a petition filed under 37 CFR 1.137(a) is being refunded to petitioner's deposit account.

This application is being referred to the Technology Center technical support staff of Art Unit 2624 for re-mailing the Office action of June 5, 2008. The period for reply will run from the mailing date of the Office action.

Carl Friedman
Petitions Examiner
Office of Petitions

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NOV 12 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HEIMLICH LAW
5952 Dial Way
San Jose, CA 95129

In re Application of: SHUBING ZHAI et al.
Application No. 10861897
Filed: June 4, 2004
For: METHOD AND APPARATUS FOR FORWARDING BURSTY DATA

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a proper reply to the final Office action mailed on February 20, 2009. No Appeal brief was filed within two month from May 27, 2009, the date a notice of Appeal was filed. A Notice of Abandonment was mailed on September 30, 2009, four month after the filing of the Notice of Appeal.

A review of the file record indicates that Applicant filed for three months extension of time along with an Appeal Brief on October 27, 2009. The Appeal Brief is timely filed within the extended period of time after the filing of the Notice of Appeal; the Notice of Abandonment was mailed in error. The Office regrets any inconvenience caused by this error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the examiner for an appropriate action.

Any inquiry regarding this decision should be directed to Seema Rao, Supervisory Patent Examiner, at (571) 272-3174.

Hassan Kizou
Workgroup Quality Assurance Specialist
Technology Center 2400

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PO BOX 1208
SEATTLE WA 98111-1208

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of Hanson, et al. Application No. 10/861,899 Filed: June 3, 2004 Attorney Docket No. 63857.8245.US00 P04-0015	: : : : :	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 March 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable. In this regard, the amendment states that Application No. 09/804,697 issued as Patent No. 6,660,127. It issued as Patent No. 6,660,137. In addition, Office records show that Application No. 09/804,697 is a continuation of PCT/US2000/10120, not a continuation in part of PCT/US2000/10120.

Before the petition can be granted, petitioner must submit a substitute addressing the above matters, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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OFFICE OF PETITIONS

In re Application of
Hanson, et al.
Application No. 10/861,899
Filed: June 3, 2004
Attorney Docket No. 63857.8245.US00 P04-0015

: 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 September 12, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable. The amendment states that Application No. 09/804,697 is a continuation of PCT/US**2000**/10120. A closer review of Office records reveals that Application no. 09/804,697 is a continuation of PCT/US**00**/10120. (emphasis added)

Before the petition can be granted, petitioner must submit a substitute amendment addressing the above matter, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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In re Application of Hanson, et al. Application No. 10/861,899 Filed: June 3, 2004 Attorney Docket No. 63857.8245.US00 P04-0015	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 16, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1795 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: corrected filing receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/861,899	06/03/2004	1795	1070	63857.8245.US00 P04-0015	23	2

CONFIRMATION NO. 3043

CORRECTED FILING RECEIPT

45540
PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE, WA 98111-1208

OC000000033853353

Date Mailed: 12/31/2008

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 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)

Kyle M. Hanson, Kalispell, MT;
John L. Klocke, Kalispell, MT;

Power of Attorney: The patent practitioners associated with Customer Number 50689

Domestic Priority data as claimed by applicant

This application is a CIP of 10/729,349 12/05/2003 PAT 7,351,314
and is a CIP of 10/729,357 12/05/2003 PAT 7,351,315
and is a CIP of 09/872,151 05/31/2001 PAT 7,264,698
which is a CIP of 09/804,697 03/12/2001 PAT 6,660,137
which is a CON of PCT/US00/10120 04/13/2000
which claims benefit of 60/129,055 04/13/1999
This application 10/861,899
is a CIP of 09/875,365 06/05/2001 PAT 6,916,412

Foreign Applications

If Required, Foreign Filing License Granted: 07/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/861,899**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Chambers, systems, and methods for electrochemically processing microfeature workpieces

Preliminary Class

204

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of :
Steiner, et al. : DECISION ON PETITION
Application No. 10/861,923 :
Filed: June 7, 2004 :
Atty. Dkt. No.: P-4643-US3 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 18, 2007.

This application was held abandoned for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice) mailed October 19, 2004. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed October 9, 2007.

Petitioners assert that a response to the Notice and a petition for extension of time were timely submitted on April 19, 2005 and have provided as proof of submission and proof of receipt a postcard bearing a USPTO date stamp to this effect.

The original response filed April 19, 2005 has been located in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of

LOH, Ban P. et al.
Application No. 10/861,929
Filed: June 04, 2004
Attorney Docket No. **8966-000005/01A**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Terri William
Petitions Examiner
Office of Petitions

cc: **JENKIN, WILSON, TAYLOR & HUNT**
UNIVERSITY TOWER, SUITE 1200
3100 TOWER BOULEVARD
DURHAM, NC 27707

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,638,276
Inventor(s) : Griffiths et al.
Issued : December 29, 2009
Title : IN VITRO SORTING METHOD

Docket No. : 18396/1083E (21465-201)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
571 272-0470 or 703 756-1580

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Michelle A. Iwamoto, Ph.D. | 212 692 6240 | maiwamoto@mintz.com
IP Patent Attorney

Fax Transmittal

FROM:

Name Michelle A. Iwamoto, Ph.D.

Date March 2, 2010

# of Pages 16

TO:

Attention	Company	Business#	Fax #
Office of Petitions	USPTO	(571) 272-1000	(571) 273-8300

RE: U.S. Patent No. 7,638,276
Issued: December 29, 2009
Inventors: Griffiths and Tawfik
Entitled: "In Vitro Sorting Method"
Attorney Docket No.: 21465-201

Filed herewith is a Petition to Amend Assignee on Face of Patent Under 37 C.F.R. §3.81 and accompanying documents, 16 pages in total.

Respectfully submitted,
Michelle A. Iwamoto, Reg. No. 55,296

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this correspondence, and the documents referred to as attached hereto, are being transmitted to the United States Patent and Trademark Office, Office of Petitions; Commissioner for Patents, Facsimile Number (571) 273-8300 on this 2nd day of March, 2010.

Michelle A Iwamoto
Michelle A. Iwamoto, Reg. No. 55,296

PAGE 1/16 * RCVD AT 3/2/2010 5:56:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/9 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-20

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By Facsimile: (571) 270-9754
Date of Deposit: March 2, 2010

Attorney Docket No. 21465-201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Andrew **GRIFFITHS**, *et al.*	Conf. No.: 2834
U.S. Patent No.	:	7,638,276	
Issued:	:	December 29, 2009	
Application No.	:	10/861,930	
Filed	:	June 4, 2004	
TC/A.U.	:	1633	
Examiner	:	Kelaginamane T. **HIRIYANNA**	
Customer No.	:	35437	
For	:	***IN VITRO* SORTING METHOD**	

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Transmitted herewith for filing in the present patent are the following documents:

1. Petition to Amend Assignee on Face of Patent Under 37 C.F.R. §3.81 (3 pages);
2. Exhibit 1 (Request for Certificate of Correction, Certificate of Correction and accompanying papers filed with U.S. Patent and Trademark Office ("USPTO) on February 1, 2010) (7 pages); and
3. Exhibit 2 (Letter from RoChaun Johnson, Decisions & Certificates of Correction Branch of the USPTO) (2 pages).

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned collect at (212) 935-3000, New York, New York.

The Commissioner is hereby authorized to charge the fee of $130.00 due as set forth in 37 C.F.R. § 1.17(i), and any additional fees due, or credit any overpayment of same, to Deposit Account No. **50-0311,** Reference No. **21465-201,** Customer No. **35437.**

Respectfully submitted,

Dated: March 2, 2010

Michelle A Iwamoto

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
Attorney for Applicants
c/o MINTZ, LEVIN, *et al.*
666 Third Avenue-24th Floor
New York, New York 10017
Telephone: (212) 935-3000
Telefax: (212) 983-3115

03/04/2010 JVONG1 00000003 500311 10861930
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PAGE 2/16 * RCVD AT 3/2/2010 5:56:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/9 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-20

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By Facsimile: (571) 270-9754
Date of Deposit: March 2, 2010

Attorney Docket No. 21465-201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Andrew **GRIFFITHS**, *et al.*	Conf. No.: 2834
U.S. Patent No.	:	7,638,276	
Issued:	:	December 29, 2009	
Application No.	:	10/861,930	
Filed	:	June 4, 2004	
TC/A.U.	:	1633	
Examiner	:	Kelaginamane T. **HIRIYANNA**	
Customer No.	:	35437	
For	:	***IN VITRO* SORTING METHOD**	

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO AMEND ASSIGNEE
ON FACE OF PATENT UNDER 37 C.F.R. §3.81

At the request of the U.S. Patent and Trademark Office, the patentee of the above-identified patent, through its attorney (together referred to herein as "Applicants"), hereby petitions to amend the assignee on the face of U.S. Patent No. 7,638,276. Applicants also authorize the Commissioner to charge the fee set forth in 37 C.F.R. §1.17(i) to Deposit Account No. **35437**, Reference No. **21465-201**. The facts in support of this petition are as follows:

1. An assignment from the inventors Andrew Griffiths and Dan Tawfik referencing the parent application, U.S. Patent Application Serial No. 09/464,122 (now U.S. Patent No. 6,489,103) was executed and recorded in relation to the above-identified patent at the U.S. Patent and Trademark Office on March 29, 2009 at Reel/Frame No. 022461/0506.

2. This assignment recites that the inventors Andrew Griffiths and Dan Tawfik ("the undersigned") assign to Medical Research Council, having a principal place of business at 20 Park Crescent, London W1N 4AL (GB), its successors and assigns, the entire right, title and interest in the invention or improvements of the undersigned disclosed in an application for Letters Patent of the United States, entitled 'In Vitro Sorting Method' and identified as Serial No.: 09/464,122; Filed December 16, 1999, and in said application and any and all applications, both United States and foreign, which the undersigned may

MAR 0 2 2010

file, either solely or jointly with others, on said invention or improvements and in any and all Letters Patent of the United States and foreign countries, which may be obtained on any of said applications, and in any reissue or extension of such patents, and further assigns to said assignee the priority right provided by the International Convention (Emphasis added).

3. The assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 on March 29, 2009, before issuance of the patent.

4. On November 12, 2009, Applicants submitted PTOL-85 that erroneously stated that the name of the assignee was "454 Life Sciences Corporation".

5. On December 29, 2009, U.S. Patent 7,638,276 issued in the name of 454 Life Sciences Corporation.

6. To correct this error and pursuant to the provisions of 37 C.F.R. §§3.81, 1.322, and 1.323, Applicants submitted a Request for Certificate of Correction to correct the assignee listed on the face of U.S. Patent No. 7,638,276 on February 1, 2010 from "454 Life Sciences Corporation" to "Medical Research Council, London (GB)". Copies of this Request, the Certificate of Correction, and accompanying papers are provided herewith as "Exhibit 1".

7. The request explicitly stated that the assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 on March 29, 2009, before issuance of the patent. Also submitted with the request was the fee set forth in 37 C.F.R. §1.20(a). The request and the transmittal also stated that the Commissioner was authorized to charge any additional fees due to Deposit Account No. 50-0311.

8. On February 25, 2010, Applicants received a letter from RoChaun Johnson from the Decisions & Certificates of Correction Branch of the U.S. Patent and Trademark Office, notifying Applicants that the Request for Certificate of Correction was denied, because Applicants failed to state that the assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 and failed to include the processing fee set forth in 37 C.F.R. §1.17(i). A copy of this letter is submitted herewith as "Exhibit 2".

PAGE 4/16 * RCVD AT 3/2/2010 5:56:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/9 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-20

MAR 0 2 2010

9. Contrary to Ms. Johnson's letter, Applicants respectfully submit that the request clearly stated that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11. See Exhibit 1, "Request for Certificate of Correction for Letters Patent" at page 2. Furthermore, the Commissioner was authorized to charge any additional fees due to Deposit Account No. 50-0311 and the request should not have been denied solely based on the deficiency in payment of the processing fee under 37 C.F.R. §1.17(i).

10. On March 2, 2010, Applicants' representative, Michelle A. Iwamoto, telephonically contacted Ms. Johnson, who advised that any such change to the assignee information on the face of the patent must be submitted as a petition under 37 C.F.R. §3.81 and include the processing fee under 37 C.F.R. §1.17(i). Although Applicants can find no provision in 37 C.F.R. stating that such corrections must be submitted by way of petition, Applicants nevertheless submit this petition in the interest of expediting the correction of the assignee on the face of U.S. Patent No. 7,638,276.

11. The correction to the assignee is not believed to involve such change as would constitute new matter or require examination.

12. It is respectfully requested that a Certificate of Correction or some other form of correction be issued pursuant to 35 U.S.C. §254 to correct the assignee information. Applicants believe that they are not required to submit a new Request for Certificate of Correction under 37 C.F.R. §1.323 or a second payment of the correction fee under 37 C.F.R. §1.20(a).

The Commissioner is hereby authorized to charge any additional fees due, or credit any overpayment of same, to Customer No. **35437**; Deposit Account No. **50-0311**; Reference No. **21465-201.**

Respectfully submitted,

Dated: March 2, 2010

Michelle A Iwamoto

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
Attorney for Applicants
c/o MINTZ, LEVIN, *et al.*
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PAGE 5/16 * RCVD AT 3/2/2010 5:56:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/9 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-20

EXHIBIT 1

Express Mail No. EM266574739US
Date of Deposit: February 1, 2010

Attorney Docket No.: 21465-201

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Griffiths, A. et al.	CONFIRMATION NUMBER :	2834
U.S. PATENT NO.:	7,638,276	ISSUE DATE :	December 29, 2009
SERIAL NUMBER :	10/861,930	EXAMINER :	Hiriyanna, K.
FILING DATE :	June 4, 2004	ART UNIT :	1633
FOR :	**IN VITRO SORTING METHOD**		

CERTIFICATE OF CORRECTION BRANCH
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Transmitted herewith for filing in the present patent are the following documents:

1. Request for Certificate of Correction for Letters Patent (2 pages);
2. Certificate of Correction (1 page);
3. Check No. 5243 in the amount of $100.00; and
4. Return Postcard.

If the enclosed papers are considered incomplete, the Mail Room is respectfully requested to contact the undersigned collect at (212) 935-3000, New York, New York.

No additional fees are believed due in connection with this submission, however, the Commissioner is hereby authorized to charge any additional fees due, or credit any overpayment of same, to Deposit Account No. **50-0311**; Reference No. **21465-201**; Customer No. **35437**.

Respectfully submitted,

Dated: February 1, 2010

Michelle A Iwamoto

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
Attorney/Agent for Applicants
c/o MINTZ, LEVIN, *et al.*
666 Third Avenue-24th Floor
New York, New York 10017
Telephone: (212) 935-3000
Telefax: (212) 983-3115

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Express Mail No. EM26657..39US
Date of Deposit: February 1, 2010

Attorne, ocket No.: 21465-201

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Griffiths, A. et al.	CONFIRMATION NUMBER :	2834
U.S. PATENT NO.:	7,638,276	ISSUE DATE :	December 29, 2009
SERIAL NUMBER :	10/861,930	EXAMINER :	Hiriyanna, K.
FILING DATE :	June 4, 2004	ART UNIT :	1633
FOR :	IN VITRO SORTING METHOD		

CERTIFICATE OF CORRECTION BRANCH
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.322

The patentee of the above-identified patent, through its attorney, hereby requests issuance of a Certificate of Correction. A certificate is required to correct an error, as follows:

Assignee:

The patentee hereby files this Certificate of Correction to correct the assignee information listed on the face of U.S. Patent No. 7,638,276. An assignment from the inventors Andrew Griffiths and Dan Tawfik referencing the parent application, U.S. Patent Application Serial No. 09/464,122 (now U.S. Patent No. 6,489,103) was executed and recorded in relation to the above-identified patent at the U.S. Patent and Trademark Office on March 29, 2009 at Reel/Frame No. 022461/0506. This assignment recites that the inventors Andrew Griffiths and Dan Tawfik ("the undersigned") assign to Medical Research Council, having a principal place of business at 20 Park Crescent, London W1N 4AL (GB), its successors and assigns, the entire right, title and interest in the invention or improvements of the undersigned disclosed in an application for Letters Patent of the United States, entitled 'In Vitro Sorting Method' and identified as Serial No.: 09/464,122; Filed December 16, 1999, and in said application and any and all applications, both United States and foreign, which the undersigned may file, either solely or jointly with others, on said invention or improvements and in any and all Letters Patent of the United States

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Date of Deposit: February 1, 2010

Attorney Docket No.: 21465-201

and foreign countries, which may be obtained on any of said applications, and in any reissue or extension of such patents, and further assigns to said assignee the priority right provided by the International Convention (Emphasis added). The assignment was submitted for recordation as set forth in 37 C.F.R. 3.11 on March 29, 2009, before issuance of the patent.

Therefore, the patentee hereby submits this Certificate of Correction to correct the assignee listed on the face of U.S. Patent No. 7,638,276. The assignee of this patent is Medical Research Council, London (GB).

The correction to the assignee is not believed to involve such change as would constitute new matter or require examination.

It is respectfully requested that a Certificate of Correction be issued pursuant to 35 U.S.C. §254 to correct the assignee information. Enclosed herewith is a copy of a proposed Certificate of Correction indicating the errors and corrections thereof.

Also enclosed herewith is the fee set forth in 37 C.F.R. §1.20(a).

The Commissioner is hereby authorized to charge any fees due, or credit any overpayment of same, to Customer No. **35437**; Deposit Account No. **50-0311**; Reference No. **21465-201**.

Respectfully submitted,

Dated: February 1, 2010

Michelle A. Iwamoto

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
Attorney/Agent for Applicants
c/o MINTZ, LEVIN, *et al.*
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Telephone: (212) 935-3000
Telefax: (212) 983-3115

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Express Mail No. EM266[illegible]739US
Date of Deposit: February 1, 2010

Attorney D[illegible]ket No.: 21465-201

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.:	7,638,276
APPLICATION NO.:	10/861,930
ISSUE DATE:	December 29, 2009
INVENTOR(S):	Andrew Griffiths and Dan Tawfik

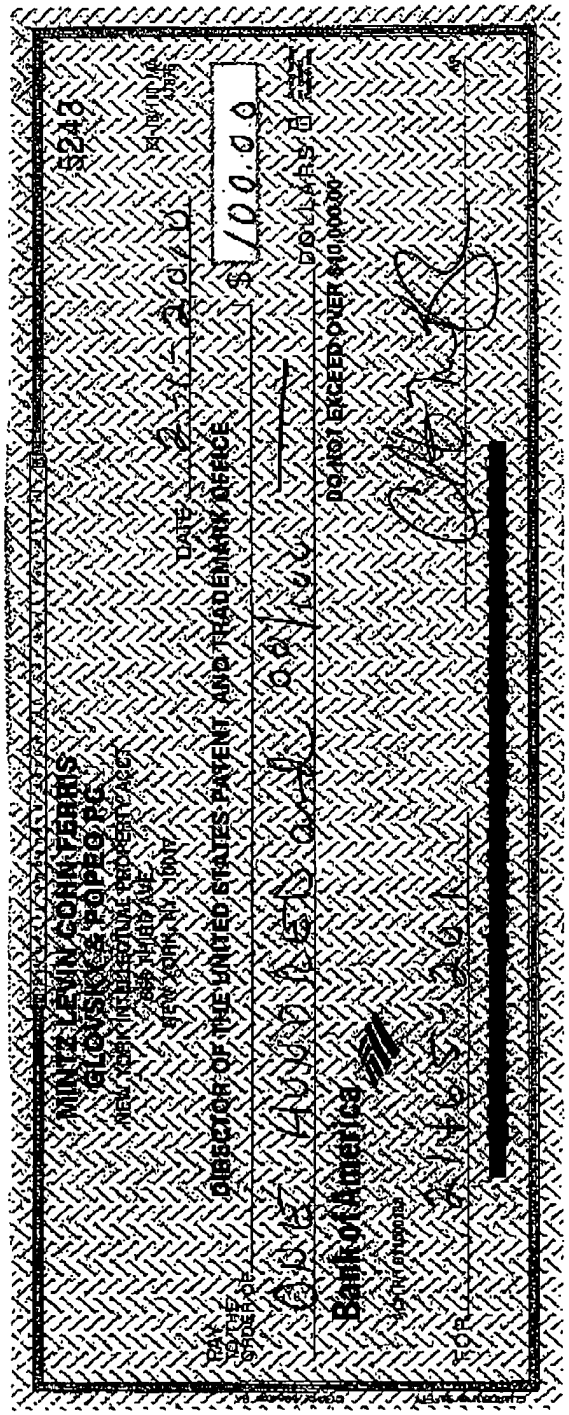
It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Page 1, (73), the assignee should be: Medical Research Council, London (GB)

MAILING ADDRESS OF SENDER:

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
Attorney/Agent for Applicants
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
666 Third Avenue-24th Floor
New York, New York 10017
Telephone: (212) 935-3000
Telefax: (212) 983-3115

4825471v.1


MINTZ, LEVIN, COHN, FERRIS
GLOVSKY & POPEO, P.C.
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
DATE
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Bank of America

Serial No. 7,638,276 10/861,980 File No. 21465-201 By: [illegible]

Title: In Vitro Sorting Method

Application of Griffiths et al. Date 12/29/09 06/04/2004

The U.S. PTO Mail Room acknowledges receipt of the following on the date stamped hereon:

[ ] Req. for CPA under 37 CFR 1.53(d)
[ ] Change of Attorney's Address
[ ] New Power of Attorney
[ ] Patent Application
[ ] Non-provisional [ ] Provisional
Incl. ____ pages, (pgs) Specification,
(pgs) Abstract, (pgs) Claims (____ # claims)
[ ] Design Patent Application
[ ] Declaration(s)
[ ] Drawings ____ sheet(s) (FIGS. ____ - ____)
[ ] Formal [ ] Informal
[ ] Verified Statement claiming small entity status
[ ] Assignment and Cover Sheet
[ ] Provisional Application Cover Sheet
[ ] Inf. Discl. Statement, PTO Form 1449
[ ] Reference Cited
[ ] Copy of Notice to File Missing Parts
[ ] Amendment/Response
[ ] Petition for Ext. of Time (x2)
[ ] Issue Fee Transmittal
[ ] Letter to Official Draftsperson
[ ] Notice of Appeal
[ ] Brief (x3)
[X] Check for $100.00 Check # 5243
[X] Transmittal Letter (x2)
[ ] Cert. of Mailing under 37CFR 1.8(a)
[X] Express Mail Label No. EH266574739US

[X] Other Request for Certificate of Correction (2 pgs)
Certificate of Correction (1 pg.)

DATE MAILED 02/01/2010

OPAP IAP 18 FEB 01 2010 PATENT & TRADEMARK OFFICE

PAGE 12/16 * RCVD AT 3/2/2010 5:56:43 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/9 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-20

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Time Accepted 1:30 AM ☐ PM
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GLOVSKY & POPEO, PC
666 3RD AVE FL 24
NEW YORK NY 10017-4040
Jake/Mai 21465-201

TO: (PLEASE PRINT) PHONE

Certificate of Correction Branch
Commissioner For Patents
P O Box 1450
Alexandria, VA 22313-1450

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EXHIBIT 2

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,638,276
Inventor(s) : Griffiths et al.
Issued : December 29, 2009
Title : IN VITRO SORTING METHOD

Docket No. : 18396/1083E (21465-201)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
571 272-0470 or 703 756-1580

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
666 THIRD AVENUE- 24TH FLOOR
NEW YORK, NEW YORK 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:
Nagata et al.	:
Application No. 10/861,934	:
Filed: June 7, 2004	: DECISION ON PETITION
Attorney Docket No. 1110-0163PUS2	:
	:

This is a decision on the petition filed December 20, 2004, requesting that the application be accorded a filing date of June 7, 2004, with Figure 13B as part of the original disclosure.

On June 7, 2004, applicants filed the above-identified application. However, on October 20, 2004, the Office of Initial Patent Examination sent a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence, stating that the application had been accorded a filing date of June 7, 2004, and indicating, inter alia, that Figure 13B described in the specification appeared to have been omitted.

In response, on December 20, 2004, applicants filed, inter alia, the present petition, a petition fee, and one drawing replacement sheet of Figures 13A and 13B.

In the present petition, applicants stated that Figure 13 submitted on filing should have been depicted as Figures 13A and 13B. Applicants further stated that Figure 13B was included in the originally filed application papers, but was not labeled as such.

It is obvious from the petition that Figure 13B was not actually missing on June 7, 2004. Rather, Figures 13A and 13B were simply mislabeled as Figure 13 as a result of applicants' filing error.

Therefore, according to Office records, the Notice of October 20, 2004, was correct in stating that Figure 13B described in the specification appeared to have been omitted. Therefore, the requirement to submit omitted Figure 13B set forth in the Notice was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

A preliminary amendment requesting entry of Figures 13A and 13B should be filed prior to the first action on the merits.

The Office finance records indicate that applicants submitted a petition fee of $130.00. The current petition fee is $400.00. Applicants' Deposit Account was charge the $400.00 petition fee. The $400.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office. However, the $130.00 fee submitted on petition is refundable. Applicants may request a refund of the $130.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicants' request.

The Office of Initial Patent Examination is directed to process the application with a filing date of June 7, 2004, using only the drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (570) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Shigekazu Nagata	: DECISION ON REQUEST FOR
Patent Number	: 7622554	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/861,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **439** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUMEN PATENT FIRM
2345 YALE STREET
SECOND FLOOR
PALO ALTO CA 94306

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DEC 02 2008

In re Application of	:	
Sanjiv Malhotra	:	
Application No. 10/861,946	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. OOR-103	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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/drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed March 4, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received October 2, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MAY 24 2007

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

In re Application of:
LEWIS, STEVEN A.
Serial No.: 10/861,959
Filed: Jun. 4, 2004
Docket: H0004198-1140
Title: HIGH ACCURACY LOW LEAKAGE VALVE FOR HIGH PRESSURE APPLICATIONS

DECISION ON PETITION

This is a decision on the petition filed on Aug. 11, 2006 by which petitioner requests reconsideration of the restriction requirement made final in the Office action mailed Jun. 14, 2006. The petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181.

The petition is **DISMISSED as moot**.

The record shows that:

1) On Apr. 28, 2006, the examiner issued a written restriction requirement grouping claims 1-16 and 27 (Group I) as being drawn to a sleeve valve and claims 17-26 (Group II) as being drawn to a multi-way valve unit.
2) On May 16, 2006, the petitioner filed a response to the written restriction requirement and elected the Group II claims with traverse.
3) On Jun. 14, 2006, the examiner issued a non-final Office action and made the restriction requirement final.
4) On Aug. 11, 2006, the petitioner filed the current request seeking withdrawal of the restriction requirement issued Apr. 28, 2006.
5) On Sep. 14, 2006, the petitioner filed an amendment and maintained the position that the restriction requirement was improper.
6) On Nov. 30, 2006, the examiner issued a final Office action and acknowledged that petitioner timely traversed the restriction requirement in the reply filed May 16, 2006.
7) On Feb. 22, 2007, the petitioner filed a request for continued examination including amendments that canceled the non-elected claims 17-26 which petitioner requested in the current petition to be rejoined and examined.

Discussion and Analysis

MPEP 806.05(c) Criteria of Distinctness Between Combination and Subcombination, states:

> To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a *>serious< search burden >if restriction were not required< as evidenced by separate classification, status, or field of search. See MPEP § 808.02. The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct. The following examples are included for general guidance.

MPEP 808.02 Establishing Burden, states:

> Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held.
>
> Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:
>
> (A) **Separate classification thereof**: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.
>
> (B) **A separate status in the art when they are classifiable together**: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.
>
> (C) **A different field of search**: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown), even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.
>
> Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

The examiner originally grouped the claims as follows, in the restriction requirement dated Apr. 28, 2006:

> Group I: Claims 1-16 and 27, drawn to a sleeve valve, classified in class 251, subclass 343.
> Group II: Claims 17-26, drawn to a multi-way valve unit, classified in class 137, subclass 625.3.

The examiner stated that the inventions were distinct because the inventions were related as combination (Group II) and subcombination (Group I) in accordance with MPEP 806.05(c). The restriction requirement is considered proper in that the inventions are distinct for the reasons set forth in the restriction requirement dated Apr. 28, 2006 and each invention would involve a separate search and examination.

A review of the record in this application reveals that the non-elected claims 17-26 that petitioner requests rejoinder and examination of have now been canceled. Therefore, in order to determine whether the restriction requirement that the examiner made final in the Office action dated Jun. 14, 2006 was proper, a review of the amended claims petitioner submitted on Sep. 14, 2006 must be reviewed.

A review of the claims dated Sep. 14, 2006 reveals that the restriction requirement, in accordance with MPEP 806.05(c), was still proper. The Group I and Group II claims were still related as combination (Group II) and subcombination (Group I) claims. The combination as claimed (Group II) does not require the particulars of the subcombination for patentability because the sleeve valve has at least one channel in a sidewall having a first channel end/facing in the inner surface at a first location between the at least one opening and the valve sleeve first end and a second channel end in the inner surface at a second location between the valve sleeve second end and the at least one opening. The combination claims 17-26 do not require these particular limitations. The subcombination has utility by itself such as a sleeve valve.

Petitioner argues in the petition that the examiner did not demonstrate that the inventions of Group I and Group II were separately classified. This is not convincing because the examiner clearly classified the groups into different classes, class 251 and class 137, in the restriction requirement dated Apr. 28, 2006. In accordance with MPEP 808.02, separate classification shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. Searching the sleeve valve in Group I entails a separate field of search from that of the multi-way valve unit in Group II. In addition, separate classification shows that each invention has attained recognition in the art as a separate subject for inventive effort, in this case, the sleeve valve is classified in class 251 "Valves and Valve Actuation" and the multi-way valve unit is classified in class 137 "Fluid Handling". Furthermore, a different field of search is shown where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., **searching different classes/subclasses or electronic resources, or employing different search queries**), a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search. Although some classes/subclasses of Group I may overlap with those of Group II, the search of Group I will not be identical to the search of Group II. Different classes and subclasses will need to be search for each respective group and different search queries will be required. For example, when searching for the subcombination claims (Group I), text searching of the term "gas turbine engine" as recited in the combination claims (Group II) will not be required. In addition, a search in the valve class, class 251 will not necessarily reveal prior art pertinent to a "gas turbine engine" in the Group II claims.

Petitioner argues in the petition that the subcombination has not been shown to have separate utility because while the claims are not identical, it is not clear how an invention having the claimed channel could be searched without also finding art relevant to the claimed passage, and vice versa. Although some classes/subclasses of Group I may overlap with those of Group II, the search of Group I will not be identical to the search of Group II. Different classes and subclasses will need to be search for each respective group and different search queries will be required. For example, when searching for the subcombination claims (Group I), text searching of the term "gas turbine engine" as recited in the combination claims (Group II) will not be required. In addition, a search in the valve class, class 251 will not necessarily reveal prior art pertinent to a "gas turbine engine".

In view of the record, the restriction requirement rendered on Apr. 28, 2006 is considered proper and stands. The examiner properly followed the guidelines set forth in MPEP sections 806.05(c) and 808.02. Petitioner's request to have non-elected claims 17-26 be examined in this application is dismissed. In light of the cancelation of the non-elected claims 17-26 in the request for continued examination filed Feb. 22, 2007, the petition is considered moot and dismissed.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. The restriction requirement rendered on Apr. 28, 2006 is considered proper. Petitioner's request to have non-elected claims 17-26 be examined in this application is dismissed. Since claims 17-26 which petitioner requested rejoinder and examination of are now canceled, the petition is considered moot and is dismissed.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3753 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed as moot.

Karen M. Young, Director
Technology Center 3700

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STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

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JUN 1 7 2008

OFFICE OF PETITIONS

In re Patent No. 7108264 :
Issue Date: 09/19/2006 :
Application Number: 10/861961 : NOTICE
Filing or 371(c) Date: 06/03/2004 :
Attorney Docket Number: 88516.0010 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood
Douglas I. Wood
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/27/07

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: **10861969** Patent No.: **7155918**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — Art Unit 3744

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SUITE 3500
LOS ANGELES, CA 90067

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Shaun Pendo, et al.	:	
Application No. 10/861,976	:	DECISION GRANTING PETITION
Filed: June 4, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 047711-0345	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK TX 79401

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Jerry Wayne Smoot	:	
Application No. 10/862,010	:	DECISION ON PETITION
Filing Date: June 4, 2004	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: JWS2004A	:	
Title: PORTABLE PET SHOWER AND	:	
DRYER APPARATUS	:	

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 19, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed July 30, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 1, 2004. A notice of abandonment was mailed on April 20, 2005.

With the present petition, Petitioner has submitted the petition fee, the proper statement of unintentional delay, a declaration as well as the fee associated with the late submission of the same, the filing fee, and the search fee. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As such, the petition is **GRANTED**.

The Office of Initial Patent Examination will be notified 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

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SANDEEP JAGGI
LSI LOGIC CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
1621 BARBER LANE, M/S D-106
MILPITAS CA 95035

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In re Application of	:	
Doyle R. Hopkins	:	
Application No. 10/862,039	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 10/862,039	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 6, 2008, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

STEPHEN G. SULLIVAN
PO BOX 1329
MOUNTAIN VIEW, CA 94042

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JJGJR.: 06-05

Paper No: __

Cahill, von Hellens & Glazer P.L.C.
155 Park One
2141 East Highland Avenue
Phoenix AZ 85016

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Kammerzell, et al.	:	
Application No. 10/862,040	:	ON PETITION
Filed: 4 June, 2004	:	
Attorney Docket No. 6600-A-1	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 27 September, 2004.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 4 June, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 26 July, 2004, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration was required within two months;
- on 27 September, 2004, Petitioner C. Robert von Hellens (Reg. No. 25,714) filed the instant petition, along with an oath/declaration containing the signatures of named co-inventors Donald L. Kammerzell and Larry Lee Kammerzell, but without the signature of named co-inventor Charles Russo (Mr. Russo), a narration regarding disagreements between the non-signing inventor Mr. Russo and the alleged assignee, and an averment that the entire application was presented to Mr. Russo–however, no transmittal letter is in evidence demonstrating that the entire application (description, claims, abstract, drawings) was been presented to the non-signing inventor Mr. Russo, and–contrary to the allegation of the petition–the declaration of Mr. Donald L. Kammerzell does not address this requirement.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the

petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands appears to be in conflict as to whether the entire application was presented to Mr. Russo. A copy of a transmittal letter setting forth the contents transmitted does not appear to have been part of the documentation supporting the instant petition. In this case, a copy of the transmittal letter evidencing that the entire application (description, claims, abstract and drawings) should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 02-06

Paper No: __

CAHILL, VON HELLENS & GLAZER P.L.C.
155 PARK ONE
2141 EAST HIGHLAND AVENUE
PHOENIX AZ 85016

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Kammerzell, et al.	:	
Application No. 10/862,040	:	ON PETITION
Filed: 4 June, 2004	:	
Attorney Docket No. 6600-A-1	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on16 June, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 4 June, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 26 July, 2004, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration was required within two months;
- on 27 September, 2004, Petitioner C. Robert von Hellens (Reg. No. 25,714) filed the original petition, along with an oath/declaration containing the signatures of named co-inventors Donald L. Kammerzell and Larry Lee Kammerzell, but without the signature of named co-

inventor Charles Russo (Mr. Russo), a narration regarding disagreements between the non-signing inventor Mr. Russo and the alleged assignee, and an averment that the entire application was presented to Mr. Russo–however, the petition was dismissed on 16 June, 2005, because, *inter alia*, no transmittal letter was in evidence demonstrating that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Mr. Russo, and contrary to the allegation of the petition the declaration of Mr. Donald L. Kammerzell did not address this requirement;

- the instant petition seeks to and does cure the former deficiencies and evidences that the non-signing inventor has failed to submit a signed oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU CA 90265

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of
Jonathan J. Lynch et al
Application No. 10/862,043
Filed: June 3, 2004
Attorney Docket No. B-5051NP
621805-9

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed March 9, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PARSONS BEHLE & LATIMER
SUITE 1800
201 SOUTH MAIN STREET
P.O. BOX 45898
SALT LAKE CITY UT 84111

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of

CAO, Densen
Application No. 10/862,052
Filed: June 04, 2004
Attorney Docket No. **5078.1 P**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **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 Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CAO GROUP, INC.**
4358 SOUTH SKYHAWK DRIVE
WEST JORDAN, UT 84084

UNITED STATES 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

James H. Morris, Esq.
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston MA 02210

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MAY 23 2005

OFFICE OF PETITIONS

In re Application Of:
Richard Ferrant :
Application No. 10/862,057 :
Filed: June 4, 2004 :
Attorney Docket No. S1022.81093US01 :
Title: CACHE CELL WITH MASKING :

DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b) [1, 2], filed August 10, 2004.

The above-identified application was filed June 4, 2004, without an executed oath or declaration and identifying Richard Ferrant as the sole inventor. On August 2, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration, along with the basic filing fee. The notice set a two-month period for reply.

In reply, applicant filed the instant petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, the filing fee, an unexecuted declaration, and copies of several letters and e-mails.

---

1 Petitioner has set forth that the copies of the letters and e-mails included with this petition "emphasize the diligent effort made to locate Mr. Ferrant and to obtain his signature (petition, page 1)." As such, it is clear that Petitioner is asserting that the non-signing inventor cannot be located.

2 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

Petitioner has met requirements (1) - (2) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[3]. On renewed petition, Petitioner should provide the same.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* Petitioner has included various e-mails and letters which were sent to the non-signing inventor, but it does not appear that a search was ever performed. There is no indication that Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address and to send the application papers to that address for consideration by the inventor[4]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Regarding the fifth requirement, Rule 47(b) applicant has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application[5]. Petitioner has provided an assignment documents, but the language "the company...may file...in France, and *maybe* abroad (emphasis added)" makes it unclear as to whether the inventor assigned his rights for filing in the U.S. As such, it is unclear if the inventor assigned any rights in the present invention to Rule 47(b) applicant for a filing in the U.S. On renewed petition, Petitioner should provide a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant for a U.S. filing.

Regarding the sixth requirement above, no proof of irreparable damage has been submitted[6]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the seventh requirement above, the declaration cannot be accepted as nobody has executed the declaration on behalf of the inventor[7]. On renewed petition, Petitioner should have this deficiency rectified.

For these reasons, the petition under 37 C.F.R. 1.47(b) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover

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3 See MPEP 409.03(e).
4 See MPEP 409.03(d).
5 See MPEP §409.03(f).
6 See MPEP §409.03(g).
7 See MPEP 409.03(b)(A).

letter entitled "Renewed Petition Under 37 C.F.R. §1.47(b)." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition under 37 C.F.R. §1.47(b) should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[8], hand-delivery[9], or facsimile[10].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

10 (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

Jonathan P. Osha
Osha & May L.L.P.
Suite 2800
1221 McKinney St.
Houston TX 77010

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of Tetsuo **Hayases** et al. :
Application No. 10/862,062 :
Filed: June 04, 2004 : DECISION ON PETITION
Attorney Docket No. 15115/124001 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 07, 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). Three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 08, 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, Request for Continued Examination (RCE), and the $810.00 RCE filing fee; 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. Accordingly, the reply to the final Office action of November 7, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1794 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.

Christopher Bottiglia

for David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/862,071	06/04/2004	Vinay Gupta	200312379-1	2868

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
PRICE, NATHAN E

ART UNIT	PAPER NUMBER
2194	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
06/09/2004 SDIRETA1 00000039 082025 10862071
02 FC:1202 288.00 CR
03 FC:1201 172.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 07-06

Paper No: __

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Molock et al.	:	
Application No. 10/862,074	:	DECISION
Filing Date: 4 June, 2004	:	
Attorney Docket No.: VTN5024	:	

This is a decision on the petition filed on 17 March, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (oath/declaration, surcharge) mailed on 2 August, 2004, with reply due absent extension of time on or before Monday, 4 October, 2004;
- the instant application went abandoned after midnight 2 October, 2004;
- the Office mailed a Notice of Abandonment 20 April, 2005;

- on 17 March, 2006, Petitioner filed the instant petition (with fee), reply in the form of an executed oath/declaration and surcharge authorization, an indication that the petition previously had been filed in or about May 2005, and made the statement of unintentional delay.

Petitioner may have attempted to file papers at an old and non-functioning FAX line. Petitioner is directed to the Official Gazette and the Office website (www.uspto.gov) for current and valid FAX and contact numbers. Petitioners always should be aware that the official FAX filing line will respond with a transmission/receipt FAX.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

---

or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 17 March, 2006) does not necessitate a finding that the delay between midnight 2 October, 2004 (date of abandonment), and 17 March, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Molock and Garner and Counsel Karen A. Harding (Reg. No. 33,967) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to OIPE for further processing in due course.

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[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

In re Application of	:	
Hoji Alimi	:	
Application No. 10/862,092	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 228838	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 12, 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 December 13, 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 with the amendment on March 13, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received March 17, 2009.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 23 2005

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OFFICE OF THE DIRECTOR
TC 3600

Jenifer E. Haeckl, Esq.
Mirick, O'Connell, DeMallie & Lougee, LLP
1700 West Park Drive
Westborough, MA 01581-3941

In re application of
William H. Brine
Application No. 10/862,097
Filed: June 04, 2004
For: OFFSHORE FLOATING DOCK

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 31, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Brine indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 02/07/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STALLMAN & POLLOCK LLP
353 SACRAMENTO STREET
SUITE 2200
SAN FRANCISCO, CA 94111

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Michael S. Willams et al :
Application No. 10/862,113 : ON PETITION
Filed: June 4, 2004 :
Attorney Docket No. IRM-620

This is a decision on the petition, filed March 6, 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 January 29, 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 3766 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/20/09

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 10862113 Patent No.: 7529589 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: CHANGES ONLY AFFECT THE DESCRIPTION OF PUBLICATION INFORMATION. CLAIMS NOT AFFECTED.

Carl H. Layno 3766

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 15 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Milton S. Gerstein
Much Shelist Freed
Suite 1800
191 N. Wacker Drive
Chicago, IL 60606

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DEC 15 2004
OFFICE OF THE DIRECTOR
TC 3600

In re application of Paul Bien et al Application No. 10/862,114 Filed: June 3, 2004 For: INTERIOR CONTOUR FOR BORE OF A FRICTION SUPPORT BEARING OF A RAILWAY LOCOMOTIVE TRACTION MOTOR	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 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(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed August 30, 2004 fails to adequately meet requirements (D) and (E) above.

For the above stated reasons, the petition is DISMISSED.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks,

Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

SUMMARY: Petition to Make Special **DISMISSED**.

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:12/7/04

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OFFICE OF THE DIRECTOR
TC 3600

Milton S. Gerstein
Much Shelist Freed
Suite 1800
191 N. Wacker Drive
Chicago, IL 60606

In re application of
Paul Bien et al
Application No. 10/862,114
Filed: June 3, 2004
For: INTERIOR CONTOUR FOR BORE OF A FRICTION SUPPORT BEARING OF A RAILWAY LOCOMOTIVE TRACTION MOTOR

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on January 3, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 01/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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Andrew T. Prokopetz
Olive & Olive PA
500 Memorial Street
PO Box 2049
Durham NC 27702-2049

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OFFICE OF PETITIONS

In re Application of :
BORDEN et al. :
Application No. 10/862,126 : NOTICE
Filed: 06/04/2004 :
Attorney Docket No. SOIE5002 :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 10, 2007. The request was recently forwarded to the Office of Petitions for review. The undersigned immediate issued this Notice upon receiving the request. The Office sincerely apologizes for any inconvenience.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This matter is being referred to the Office of Data Management for issuance of the patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 21 2009

OFFICE OF PETITIONS

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

In re Patent No. 7,494,977	:
Issued: February 24, 2009	: DECISION UNDER 37 CFR
Application No. 10/862,134	: 1.705(b)
Filed: June 4, 2004	:
Atty. Dkt. No. P1122P2D3	:

This is a decision on the "RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed January 5, 2009. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for PTA under 37 CFR 1.705(b) is hereby DISMISSED.

The determination of patent term adjustment under 35 USC 154(b) mailed October 6, 2008 indicated that the application was entitled to a patent term adjustment of 218. On January 5, 2009, the issue fee and application for patent term adjustment were filed. Prior to a decision on the merits of the application for patent term adjustment under 37 CFR 1.705(b), the above-identified application matured into U.S. Patent No. 7,494,977 on February 24, 2009. The patent issued with a PTA of 209 days. Applicants timely contested the reduction of 22 days assessed in connection with the information disclosure statement (IDS) filed July 11, 2008. Applicants argued that response to the non-final Office action filed June 19, 2008 and the supplemental IDS filed July 11, 2008 were filed *less* than three months after the mailing of the non-final Office action mailed May 21, 2008. Applicants further argue that in accordance with 37 C.F.R. § 1.704(c), the period of time in which the supplemental IDS was filed overlapped with the three-month period set forth in 37 C.F.R. § 1.704(b), and accordingly, the period of adjustment should not be reduced.

Applicants arguments have been carefully considered, but are not found persuasive. A non-final Office action was mailed May 21, 2008. A response thereto was filed June 19, 2008. Thereafter, a supplemental reply (IDS) was filed on July 11, 2008.

In accordance with 37 CFR 1.704(c)(8), submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed is deemed a failure to engage in reasonable efforts to conclude prosecution or processing.

Thus, in accordance with 37 CFR 1.704(c)(8), the adjustment was properly reduced 22 days, the reduction commencing June 20, 2008, the day after the date that the initial reply to the non-final

Office action was filed, and ended July 11, 2008, the date that the supplemental reply (IDS) was filed.

Accordingly, the request for reconsideration of the 22 day reduction assessed in connection with the submission of a supplemental reply (IDS) is dismissed.

The required patent term adjustment application fee has been charged to patentees' deposit account, as authorized. See, 37 CFR 1.18(e).

In view thereof, no adjustment to the patent term adjustment of 209 days will be made.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Barrett et al.
Application No. 10/862,157
Filed: June 4, 2004
For: SYNTHETIC PROCESS FOR TRANS-AMINOCYCLOHEXYL ETHER COMPOUNDS
Attorney Docket No: 480102.414
Pub. No.: US 2005/0031563 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 April 18, 2005, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material errors made by the Office.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The errors mentioned with respect to Compound (65) on page 2, Compound (67) on page 3, Compound (89) on page 6, Compound (65) on page 78, Compound (52) on page 82, Compound (67) on page 83 and Compound (65) on page 87, wherein applicant requests that the "solid wedge" bond shown in the publication be replaced with a "broken wedge" bond will not be corrected as requested by applicant as the structures in the application papers show a "solid wedge" bond.

[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 errors with respect to Structure (54) on page 10, Compound 63 on page 82, Claim 35 on page 86 and Claim 85 on page 99 will be corrected as requested.

Applicant is reminded of his/her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTURAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

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In re Application of	:	
Donald T. Shannon	:	
Application No. 10/862,167	:	DECISION ON PETITION
Filed: June 4, 2004	:	
Attorney Docket No. 079234.010200	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 17, 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 April 18, 2008. A Notice of Abandonment was mailed October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate 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 Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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NOV 23 2005

OFFICE OF PETITIONS

Applicant: Kirchhofer et al.
Appl. No.: 10/862,192
Filing Date: June 4, 2004
Title: METHODS AND COMPOSITIONS FOR MODULATING HGF/MET
Attorney Docket No.: P2035R1
Pub. No.: US 2005/0037431 A1
Pub. Date: February 17, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 14, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Jacob et al.	:	
Application No. 10/862,238	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. SMB-PT091.1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of :
Roger P. Smith :
Application No. 10/862,241 : DECISION GRANTING PETITION
Filed: June 7, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. T4289-002-14 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 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 election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of January 8, 2007, 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 3754.

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
10/862,241	06/07/2004	Roger P. Smith	18208 USA

CONFIRMATION NO. 2928

POA ACCEPTANCE LETTER

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

OC000000028826876

Date Mailed: 03/14/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2007.

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 Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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JUN 19 2008

OFFICE OF PETITIONS

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

In re Application of	:	DECISION ON PETITION
Mark Duncan Mills et al.	:	PURSUANT TO
Application No. 10/862,270	:	37 C.F.R. § 1.181
Filed: June 7, 2004	:	
Attorney Docket Number: 96713/5	:	
Title: MASS SPECTROMETER	:	

This is a decision on the petition filed on March 27, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 19, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on February 20, 2007. A Notice of Abandonment was mailed on March 14, 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

1 See MPEP §710.02(e).

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) of the MPEP 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).

ANALYSIS

With this petition, Petitioner has asserted that the Notice of Allowance and Issue Fee Due, mailed November 19, 2007 was not received, has provided a copy of the records where the non-received Office action would have been entered had it been received, and has provided other evidence (the incoming mail log and the individual docket record for this application).

This petition cannot be granted, as it does not appear that Petitioner has:

- Provided a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO[2], and further

2 Petitioner has provided a copy of a print-out of the docket report that is associated with this application, however it does not appear that he has either described how this system operates or explained how information is placed into this system.

establishing that the docketing system is sufficiently reliable;

- provided a statement, establishing that a search of Petitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received[3], and;

- either provided a copy of the master docket, or set forth that no such master docket exists.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(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]. 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]. All other inquiries

---

3 In the first numbered paragraph of the petition, Petitioner asserts that the notice is not in the application file, however it does not appear that he has expressly stated that he performed a search for the same.
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).

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
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

Paper No.

COPY MAILED
AUG 04 2008

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

In re Application of	:	
Mark Duncan Mills et al.	:	DECISION ON RENEWED PETITION
Application No. 10/862,270	:	PURSUANT TO
Filed: June 7, 2004	:	37 C.F.R. § 1.181(A)
Attorney Docket Number: 96713/5	:	
Title: MASS SPECTROMETER	:	

This is a decision on the renewed petition filed on July 10, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181 is **GRANTED**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 19, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on February 20, 2007. A Notice of Abandonment was mailed on March 14, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 27, 2008, and was dismissed via the mailing of a decision on June 19, 2008. The decision on the original petition set forth, *in pertinent part*:

1 See MPEP § 710.02(e).

With this petition, Petitioner has asserted that the Notice of Allowance and Issue Fee Due, mailed November 19, 2007 was not received, has provided a copy of the records where the non-received Office action would have been entered had it been received, and has provided other evidence (the incoming mail log and the individual docket record for this application).

This petition cannot be granted, as it does not appear that Petitioner has:

- Provided a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO[2], and further establishing that the docketing system is sufficiently reliable;
- provided a statement, establishing that a search of Petitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received[3], and;
- either provided a copy of the master docket, or set forth that no such master docket exists.

With this renewed petition, Petitioner has: provided a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO and further establishing that the docketing system is sufficiently reliable; provided a statement establishing that a search of the application contents, the mail room, and the docketing entries indicates that the communication of November 19, 2007 was not received, and; set forth that no such master docket exists and provided a copy of the docket record that is associated with this application. It is noted that a copy of the incoming mail log was provided with the original petition.

CONCLUSION

Petitioner has established that the Notice of Allowance and Issue Fee Due of November 19, 2007 was not received.

The Technology Center will be notified of this decision. The Technology Center's support staff will **re-mail the Notice of Allowance and Issue Fee Due of November 19, 2007, and will set a new period for response.**

---

2 Petitioner has provided a copy of a print-out of the docket report that is associated with this application, however it does not appear that he has either described how this system operates or explained how information is placed into this system.

3 In the first numbered paragraph of the petition, Petitioner asserts that the notice is not in the application file, however it does not appear that he has expressly stated that he performed a search for the same.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/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 of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

Renner, Otto, Boisselle & Sklar, LLP (Raytheon)
1621 Euclid Avenue - 19th Floor
Cleveland, OH 44115

Mail Date: 04/21/2010

Applicant	: Gary H. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7633691	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,279	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **672** 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 : 3-28-08

TO SPE OF : **Technology Center** 3764

10/862291

SUBJECT : Request for Certificate of Correction on Patent No.: 7179201 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:
Approved,

LOAN H. THANH
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 3764

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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WONG CABELLO LUTSCH
RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249, SUITE 600
HOUSTON, TX 77070

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Louis Lien et al.	:	
Application No. 10/862,294	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 211-0005USC	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 12, 2004.[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 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), the Declaration of Patrick K. Steele states:

[1] A decision was never rendered on the petition filed in the parent application.

"3) On or about June 12, 2001, I forwarded a Declaration (37 CFR 1.63) to Gregg M. Rosenberg, Gregg M. Rosenberg & Associates, II Greenway Plaza, Suite 2810, Houston, Texas 77046-1105, an attorney representing Robert E. Harms in a litigation matter styled C. A. No. 2001-10593; *Harms v. USA Sport, Inc.*; In the 157th Judicial District Court of Harris County, Texas.

4) No response has been received from Robert E. Harms or his attorney. Mr. Harms has not signed and returned the Declaration for filing with the papers in the above-identified application."

The Declaration of Patrick K. Steele indicates a declaration was forwarded to Gregg M. Rosenberg, Gregg M. Rosenberg & Associates on June 12, 2001. However, it is not merely enough that the non-signing inventor's signature on the declaration was requested. Petitioner must demonstrate that the non-signing inventor (Mr. Harms or his representative) was presented with a copy of the application papers (specification, claims and drawings). Otherwise, Mr. Harms could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which was requested. Accordingly, under Rule 47, the applicant failed to show or provide proof that the non-signing inventor has refused to sign the declaration. Did the non-signing inventor receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that copies of the application papers were presented to the non-signing inventor, but the non-signing inventor did not respond to the petitioner's request that he sign the oath/declaration in order to show that the inventor has refused to join in the application.

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.

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 related to this decision should be directed to Irvin Dingle at (571) 272-2310.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Kick A. Nichols, Jr., P.C.
P.O. Box 16399
Sugar Land, TX 77496-6399

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249, SUITE 600
HOUSTON, TX 77070

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Louis Lien et al.	:	
Application No. 10/862,294	:	DECISION GRANTING
Filed: June 7, 2004	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 211-0005USC	:	

This is in response to the petition filed May 11, 2005 requesting reconsideration of a decision mailed March 23, 2005, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **granted.**

Petitioner has shown that the non-signing inventor (Robert E. Harms) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Lead 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
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Konstantin A. Caploon	: DECISION ON REQUEST FOR
Patent Number	: 7577264	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,302	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1441** 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
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Alexandria, Virginia 22313-1450
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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

Mail Date: 04/21/2010

Applicant	: Sang-Ho Kim	: DECISION ON REQUEST FOR
Patent Number	: 7652996	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Yasuo Nakamura :
Application No. 10/862,319 :
Filed: June 8, 2004 :
Attorney Docket No. 0756-7331

ON PETITION

This is a decision on the petition, filed March 28, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 27, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 29 2008

OFFICE OF PETITIONS

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

In re Patent No. 7,201,077	:	
Issue Date: April 10, 2007	:	
Application No. 10/862,350	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. NS-US045079	:	

This is a decision on the petition filed May 18, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Browdy and Neimark, P.L.L.C.
624 Ninth Street N.W.
Suite 300
Washington, DC
20001-5303

COPY MAILED
MAR 11 2010

In re Patent No. 7,431,507	:
Tsuji et al.	: DECISION UPON REMAND AND
Issue Date: October 7, 2008	: RECONSIDERATION OF
Application No. 10/862,359	: PATENT TERM ADJUSTMENT
Filed: June 8, 2004	: AND NOTICE OF INTENT
Attorney Docket No. Tsuji12	: TO ISSUE CERTIFICATE OF
Title: Sliding Member	: CORRECTION
	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand and ninety-five (1095) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and ninety-five (1095) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,431,507 B2

DATED : **October 7, 2008** **DRAFT**

INVENTOR(S) : Tsuji 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 694 days

Delete the phrase "by 694 days" and insert – by 1095 days--

Day : Wednesday

PALM INTRANET

Date: 3/10/2010
Time: 12:47:51

PTA Calculations for Application: 10/862359			
Application Filing Date:	06/08/2004	PTO Delay (PTO):	755
Issue Date of Patent:	10/07/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	1095
PTO Delay Adjustment:	401		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	03/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	401		
45.5	09/17/2008	PTA 36 MONTHS			
45	10/07/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
44	09/03/2008	EXPORT TO FINAL DATA CAPTURE			
43	09/02/2008	DISPATCH TO FDC			
42	09/02/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
41	08/29/2008	ISSUE FEE PAYMENT VERIFIED			
40	08/29/2008	ISSUE FEE PAYMENT RECEIVED			
39	06/27/2008	FINISHED INITIAL DATA CAPTURE			
38	06/06/2008	EXPORT TO INITIAL DATA CAPTURE			
37	06/02/2008	MAIL NOTICE OF ALLOWANCE	9		28
36	05/28/2008	ISSUE REVISION COMPLETED			
35	05/28/2008	DOCUMENT VERIFICATION			
34	05/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	05/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
32	05/27/2008	NOTICE OF ALLOWABILITY			
29	03/19/2008	DATE FORWARDED TO EXAMINER			
28	01/24/2008	RESPONSE AFTER NON-FINAL ACTION		61	26
27	01/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	08/24/2007	MAIL NON-FINAL REJECTION	746		-1
25	08/20/2007	NON-FINAL REJECTION			
24	06/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

23	05/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	11/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	05/16/2006	REFERENCE CAPTURE ON IDS			
19.7	05/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/18/2005	REFERENCE CAPTURE ON IDS			
17.7	11/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/16/2005	REFERENCE CAPTURE ON IDS			
15.7	02/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	02/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	10/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	06/08/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11	06/08/2004	REFERENCE CAPTURE ON IDS			
10.7	06/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/12/2004	APPLICATION RETURN FROM OIPE			
8	08/12/2004	APPLICATION RETURN TO OIPE			
7	08/11/2004	APPLICATION DISPATCHED FROM OIPE			
6	08/12/2004	APPLICATION IS NOW COMPLETE			
5	07/30/2004	CLEARED BY L&R (LARS)			
4	07/21/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	07/21/2004	CASE CLASSIFIED BY OIPE			
2	06/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/08/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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SEP - 3 2004

In re Application of David B. Lee Serial Number: 10/862,364 Filed: June 8, 2004 For: AIR PURIFICATION SYSTEM	: : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed June 8, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington VA 22215

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/20/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10862370 Patent No.: 7496215 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: /AT/

SAMIR AHMED
SUPERVISORY PATENT EXAMINER 2624

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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 : 7,496,215

DATED : February 24, 2009

INVENTOR(S) : Shigeki TANIGUCHI et al.

Column 12, Line 42, after "line" insert --,--.

Column 12, Line 59, after "from" insert --a--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Ave., N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,496,215

No. of add'l copies
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Michiko Endo, et al.	:	
Application No. 10/862,395	:	DECISION GRANTING PETITION
Filed: June 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1713.1003D	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned 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.

April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7402712 :
Issue Date: 07/22/2008 :
Application No. 10/862423 : ON PETITION
Filed: 06/08/2004 :
Attorney Docket No. 254118US0X :

This is a decision on the petition filed on August 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 **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: YOSHINARA
Application No. 10/862,435
Filed: June 8, 2004
For: BACKUP METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 17 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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. The different statements for each reference deemed most closely related in the discussion of each reference on pages 8-18 of the petition are sufficient in distinguishing how the claimed subject matter is patentable over the references. Accordingly, the petition is **GRANTED**.

It is noted that although the statements discussed above have been deemed sufficient, the petition as a whole is potentially confusing. In addition to the statements discussed above, the petition also identifies a first feature of independent claim 1, a second feature of independent claim 7, and a third feature of independent claim 12, and then states that "the prior art does not teach or suggest, at a minimum, the above-described features" (page 7 of the petition). The different statements for each reference on pages 8-18 essentially recite subsets of each of the first, second, and third features. The petition is potentially confusing since the different statements for each reference and the numbered features are of different scope and one could argue that it is not clear whether the statements are intended to distinguish the references or whether the numbered features are intended to distinguish the references. Accordingly, it is suggested that any future petitions be prepared so that there is no such potential confusion.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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JJGJR.: 07-05

Paper No: 12

KENYON & KENYON
1500 K STREET NW
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Thompson, et al. :
Application No. 10/862,440 : ON PETITION
Filed: 8 June, 2004 :
Attorney Docket No. 10799/118 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 8 June, 2004, without, *inter alia*, a fully executed oath or declaration;
- the Office mailed a Notice of Missing Parts (*inter alia*, oath/declaration) on 30 July, 2004, and following a reply from Petitioner (including a request and fee for an extension of time) on 29 December, 2004, the Office mailed a second Notice on 10 February, 2005, with a response due absent extension of time on or before Monday, 11 April, 2005;
- on 22 March, 2005, Petitioner filed, *inter alia*, an oath/declaration signed by the inventors (on

behalf of themselves and) save for the non-signing inventor Dongen Lily Lu (Ms. Lu), and the instant petition (Teresa A. Lavenue (Reg. No. 47,737) along with a signed statement by Ms. Lu acknowledging, *inter alia*, that she had received a copy of the entire application (specification: description abstract claims and drawings) and she was not joining in the oath/declaration.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,410,687 B2
Serial No. : 10/862,448
Inventor(s) : Dolinar
Issued : August 12, 2008
Title : **VARIEGATED COMPOSITES AND RELATED METHODS OF MANUFACTURE**
Docket No. : **09086.0044-00**
Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

ecw

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GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,410,687	:	
Issue Date: August 12, 2008	:	
Application No. 10/862,448	:	DECISION ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 09086.0044-00	:	

This is a decision on the petition, filed, November 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee name is Trex Company, Inc. The assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Trex Company, Inc. were the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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.

Petitioner should note that the Certificate of Correction fee of $100 was previously paid, therefore the duplicate payment submitted on November 11, 2009 will be credited to petitioner's deposit account.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: PETER ANTHOPOLOS
MCNEES, WALLACE & NURICK, LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/07

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/862461** Patent No.: **7146044**

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. 183

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 specification does not have support for "chromatic". Also, it would change the scope and meaning of the claims.

EILEEN LILLIS
~~SUPERVISORY~~ SPE PATENT EXAMINER

2624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : August 9, 2007

Patent No. : 7,146,044
Inventor : Masako ASAMURA et al.
Patent Issued : December 5, 2006
Title : COLOR CONVERSION DEVICE 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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to column 90 and 91 of applicants Letters Patent; the specification doe not have support for "chromatic". Also, it would change the scope and meaning of the claims. Accordingly, the printed patent is considered in accordance with the records in the Patent and Trademark Office. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

for Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Michael K. Mutter
Birch, Steward, Kolasch & Birch LLP
81190 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls, Church, VA 22040-0747

CBN/arg

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TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
ASAMURA, MASAKO, et al.
Application Serial No.: 10/862,461
Filed: June 8, 2004
For: **COLOR CONVERSION DEVICE AND METHOD**

DECISION ON PETITION

This is a decision on the petition filed January 11, 2008 under 37 CFR § 1.181 in regard to the Examiner's Refusal to issue a Corrected Patent under 37 C.F.R. §1.323.

In support of the petition, petitioner submits as a statement of facts the following:

> "Applicant's Representative filed a Request for Certificate of Correction (hereinafter "Request") pursuant to 37 C.F.R. § 1.323 to correct mere typographical errors in claims 1 and 3. Specifically, the Request was filed to delete "achromatic" and inert --chromatic-- in line 4 of claim 1 and in line 3 of claim 3. However, the Examiner denied the Request alleging that the proposed amendment would change the scope and meaning of the claims. "

Petitioner goes on to allege the errors sought to be corrected are obvious typographical errors which do not involve new matter or changes to the scope and meaning of the claims, "hue data" as recited in claims 1 and 3 comes from "chromatic data", there is no "hue data" in achromatic data, and this term being an obvious error in translation not caught in the prosecution due to the first action allowance.

The following rule and statute apply:

> § 1.323 Certificate of correction of applicant's mistake.
>
> The Office may issue a certificate of correction under the conditions specified in 35 U.S.C. 255 at the request of the patentee or the patentee's assignee, upon payment of the fee set forth in § 1.20(a). If the request relates to a patent involved in an interference, the request must comply with the requirements of this section and be accompanied by a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

> 35 U.S.C. 255 Certificate of correction of applicant's mistake.

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

A review of the file record indicates the certificate of correction request was denied in the letter dated 8/9/07 because the specification does not have support for "chromatic" and the correction would change the scope and meaning of the claims.

Furthermore, the Notice of Allowability mailed 8/3/06 includes reasons for allowance that state:

> The following is an examiner's statement of reasons for allowance: Prior art fails to teaches a color conversion device and a method for converting first color data to second color data comprising, a first calculator for generating a plurality of hue data representing **achromatic** components of a first color data, a code generator for generating an identification code that indicates a hue of the first color data, a selector for selecting the hue data according to the identification code, a second calculator for generating calculation terms, each of which is effective for a specific hue, based on the selected hue data, a coefficient generator for providing matrix coefficients based on the identification code, and a matrix calculator that performs matrix calculation using the calculation terms and the matrix coefficients to produce the second color data.

Also, upon closer inspection of the application reveals the specification as originally filed used the term "achromatic" throughout the specification and claims. At no time did it appear to have used or implied the term "chromatic". There was nothing in the specification at the time of filing, to suggest the term "achromatic" was merely a typographical or clerical error on the part of the applicant with the correct term intended to be "chromatic". The patent was examined as an application and allowed based on the use of the term "achromatic". Also, to change the term "achromatic" only in the claims at this time would lead to confusion as there would be a contradiction between the specification and the claims.

Accordingly, the petition is **DENIED**.

Valencia Martin-Wallace, Director
Technology Center 2600
Communications

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Perttu Mella	: DECISION ON REQUEST FOR
Patent Number	: 7583969	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Derek R. Van Gilder
916 Main St.
Bastrop, TX 78602

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Sherry Mathis, et. al.	:	
Application No. 10/862,489	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. M-060704-SM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

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(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed February 13, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on July 20, 2007, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is 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

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/862,489	Applicant(s) MATHIS ET AL.	
	Examiner ERIKA GARRETT	Art Unit 3636	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-3,5-19,24-29 and 34-37*.
   Claim(s) withdrawn from consideration: *20-23,30-33 and 38-41*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David Dunn/
Supervisory Patent Examiner, Art Unit 3636

Continuation of 3. NOTE: The proposed amendment raises new issues that was not previously considered and it would require further consideration and/ or search.

Continuation of 11. does NOT place the application in condition for allowance because: The amendment is an after final and it is not in condition for allowance; as noted above, the proposed amendment contains new limitations which would require further consideration.

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Guy J. Lestician	: DECISION ON REQUEST FOR
Patent Number	: 7612492	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,495	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Dhrubajyoti Borthakur	: DECISION ON REQUEST FOR
Patent Number	: 7657530	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **319** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Alexander A. Maltsev	: DECISION ON REQUEST FOR
Patent Number	: 7570953	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1114** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042

In re Application of:
MIYAMOTO
Application No. 10/862,561
Filed: June 8, 2004
For: SWITCH DEVICE, STORAGE CONTROL SYSTEM AND TRACE DATA OBTAINING METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 14, 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 14, 2005 meets all the criteria set out above.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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BAKER & MCKENZIE LLP
805 Third Avenue
New York, NY 10022

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Vincent RE, et al.
Application No. 10/862,590
Filed: June 7, 2004
For: SYSTEM AND METHOD FOR DISTRIBUTION OF SOFTWARE LICENSES INA NETWORKED COMPUTING ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 23, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Richard F. Jaworksi, Esq.
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

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NOV 09 2005

TECHNOLOGY CENTER 3600

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re application of : **DECISION ON PETITION**
Walter P. Kistler et al. : **TO MAKE SPECIAL**
Application No. 10/862,604 : **(APPLICANT'S AGE)**
Filed: June 07, 2004 :
For: SYSTEM AND METHOD FOR TRANSPORTATION AND STORAGE OF CARGO IN SPACE

This is a decision on the petition submitted on September 08, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicants are 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 are two signed declarations indicating Mr. Kistler and Mr. Citron 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: 11/02/05

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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OFFICE OF PETITIONS

In re Application of	:	
ROSENBERG	:	
Application No.: 10/862,619	:	DECISION ON PETITION
Filing Date: June 7, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: E4114-00003 (JMR-100 US)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 17, 2006, which set a three (3) month statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on 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 in the form of an amendment and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed April 17, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3732 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

Attorney's Docket No. PREC 35737USI **Patent**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	ROBERT A. HORTON ET AL.	Art Unit:	NOT YET ASSIGNED
Application No.:	NOT YET ASSIGNED	Examiner:	NOT YET ASSIGNED
Filing Date:	CONCURRENTLY HEREWITH		
Title:	HIGH TEMPERATURE INVESTMENT MATERIAL AND METHOD FOR MAKING SOLID INVESTMENT MOLDS		

10/862623

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant's attorney respectfully petitions to make special on the ground that the one of the co-inventor(s), Robert A. Horton is over 65 years of age. A declaration of Robert A. Horton verifying his age is attached. According to §708.02 of the MPEP, we have met the requirements for special status based on age and no petition fee is required. If we are in error, please charge any fee due to our deposit account number 16-0820.

Respectfully submitted,

Lowell R. Heinke

Lowell L. Heinke, Reg. No 19,471
Pearne & Gordon LLP (Customer No. 00116)
1801 East 9th Street, Ste. 1200
Cleveland, Ohio 44114-3108

(216) 579-1700 - telephone
(216) 579-6073 - facsimile

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
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OFFICE OF PETITIONS

In re Application of	:	
Trevor Jackson et al.	:	
Application No. 10/862,642	:	DECISION ON PETITION
Filed: June 7, 2004	:	TO WITHDRAW
Attorney Docket No. 19427/04287	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***assignee, Emerald Innovations LLC, has engaged new counsel in connection with all patent matters***, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed on does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **John D. Gugliotta**
6100 Oak Tree Boulevard, Suite 200
Independence, OH 44131

12 OCT 2005

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John C. McMahon
P.O. Box 30069
Kansas City, MO 64112

In re Application of	:	
BALLESTEROS, Angel Garcia	:	
Application No.: 10/862,695	:	
PCT No.: PCT/ES02/00019	:	
Int. Filing Date: 16 January 2002	:	**DECISION**
Priority Date: None	:	
Attorney Docket No.: 10,419	:	
For: UNDERGROUND PIPE AND CABLE GALLERY WHICH CAN BE INSPECTED	:	

This decision is in response to the "Request for Correction of PCT Application" filed via facsimile on 05 October 2005 which is treated under 37 CFR 1.181. No fee is required. Applicants' petition is **GRANTED** as follows:

The application was processed as a filing under 35 U.S.C. 111(a) by the Office. Applicant requests that the above-captioned application be identified as a national stage application of PCT/ES02/00019.

A review of the application file shows that applicant submitted a transmittal letter and an executed declaration on 07 June 2004. While the transmittal letter did not identify the application as a national stage application, the declaration indicated that the above-captioned application was filed pursuant to 35 U.S.C. 371. There were no other conflicting instructions. This is sufficient for a national stage filing.

For this reason, the Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 CFR 1.53(b)) mailed 29 July 2004 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing for continued processing as a national stage application of PCT/ES02/00019 filed 16 January 2002 and to remove all references that this application was filed under 35 U.S.C. 111(a).

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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COLEMAN, FL 33521

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OFFICE OF PETITIONS

In re Application of	:	
NELSON, John Robert-Winfred	:	
Application No. 10/862,697	:	DECISION ON PETITION
Filed: June 07, 2004	:	TO WITHDRAW
Attorney Docket No. **04-01**	:	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 August 11, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Frank B. Arenas, ESQ. has been revoked by the assignee of the patent application on September 03, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PATTERSON & SHERIDAN, L.L.P.**
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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Myers Bigel Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

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AUG 1 1 2008

In re Application of	:	
Brian Matthew Lora, et al.	:	
Application No. 10/862,712	:	DECISION ON PETITION
Filed: June 7, 2004	:	TO WITHDRAW
Attorney Docket No. END920085002US1	:	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 27, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Myers Bigel Sibley & Sajovec has been revoked by the assignee of the patent application on May 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Greenblum & Bernstein, P.L.C.**
1950 Roland Clarke Place
Reston, VA 20191

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OFFICE OF PETITIONS

In re Application of
Qian Huang,, et al
Application No. 10/862,728
Filed: June 7, 2004
Attorney Docket No. 113437CON

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed July 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2626 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

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: ROBERT T. CANAVAN
CANAVAN & MONKA, LLC
250 STATE ROUTE 28, SUITE 207
BRIDGEWATER, NJ 08807

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OFFICE OF PETITIONS

In re Patent No. 7,384,542	:	
Issued: June 10, 2008	:	
Application No. 10/862,731	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 108535	:	

This is a decision on the petition under 37 CFR 1.137(f), filed July 23, 2008, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, any future correspondence will be mailed solely to the address of record.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on May 2, 2008. 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. 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 Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition is found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Since this application matured into Patent No. 7,384,542 on June 10, 2008, no further action is required.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES C. PASCHALL
UOP LLC, 25 EAST ALGONQUIN RD
P.O. 5017
DES PLAINES, IL 60017

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,558,558	:	
Issue Date: July 7, 2009	:	
Application No. 10/862,742	:	DECISION ON PETITION
Filed: June 07, 2004	:	
Attorney Docket No. **PLNTEQ.035A**	:	

This is a decision on the petition, filed, October 14, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Plant Equipment Inc., dba PlantCML" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Plant Equipment Inc., dba PlantCML" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

RAM Fee His[illegible] Que[illegible]

Revenue Accounting and Man[illegible]

Name/Number: 10862742 Total Records Found: 8

Start Date: Any Date End Date: An[illegible]

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom [illegible]	[illegible]ment Method
10/15/2009	00002544	4	1464	$130.00	10/14/2[illegible]	
08/25/2009	00007733	4	1811	$100.00	08/24/2[illegible]	
06/03/2009	00006780	4	1504	$300.00	06/02/2[illegible]	
06/03/2009	00006779	4	1501	$1,510.00	06/02/2[illegible]	
01/12/2009	00000142	1	8021	$360.00	01/12/2[illegible]	
11/28/2008	00010700	4	2801	$405.00	11/26/2[illegible]	
11/28/2008	00010699	4	2252	$245.00	11/26/2[illegible]	
03/19/2008	00006222	4	2253	$525.00	03/18/2[illegible]	
07/30/2007	00011054	4	2253	$510.00	07/30/2[illegible]	
07/30/2007	00011055	4	2801	$395.00	07/30/2[illegible]	
12/26/2006	00000028	1	2253	$510.00	12/20/2[illegible]	[illegible]090007
04/20/2006	00000072	1	2252	$225.00	04/19/2[illegible]	[illegible]090007
03/24/2006	00000054	1	2252	$225.00	03/22/2[illegible]	[illegible]090007
06/07/2005	00000129	1	8021	$320.00	06/06/2[illegible]	
06/10/2004	00000109	1	2202	$216.00	06/07/2[illegible]	
06/10/2004	00000110	1	8021	$40.00	06/07/2[illegible]	
06/10/2004	00000108	1	2201	$215.00	06/07/2[illegible]	
06/10/2004	00000107	1	2001	$385.00	06/07/2[illegible]	

Adjustment date: 12/15/2009 LDIEP1
10/15/2009 INTEFSW 00001554 10862742
01 FC:1464 -130.00 OP

12/15/2009 LDIEP1 00000007 7558558
01 FC:1808 130.00 OP

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OFFICE OF PETITIONS

In re Application of	:	
Yiu Shun Ringo Yeung	:	
Application No. 10/862,754	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. CHEUNG/119/US	:	

This is a decision on the petition filed July 28, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed July 27, 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 28, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Michael Brent FORD	:	
Application No. 10/862,757	:	DECISION ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 4148OP2672CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file corrected drawings on or before March 13, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 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 payment of the Issue and Publication Fees; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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. 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 Diane Goodwyn at (571) 272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

April Wise
Petitions Examiner
Office of Petitions

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey C. Merrill
Application No. 10/862,800
Filed: June 7, 2004
Attorney's Docket No. 995 P 004

ON PETITION

This is a decision on the petition filed May 31, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on September 30, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed July 29, 2004 which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 20, 2005.

The oath or declaration and late filing surcharge, as required by the Notice to File Missing Parts mailed July 29, 2004 in addition to the petition fee is acknowledged.

All other requirements having been met , this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PITTSBURGH PA 15219-1425

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OFFICE OF PETITIONS

In re Application of :
Lin et al. :
Application No. 10/862,807 : ON PETITION
Filed: June 7, 2004 :
Attorney Docket No. DB000862-001 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on July 29, 2005, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filed nonprovisional Application 09/652,364 filed August 31, 2000.

The petition is **Dismissed As Moot** .

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on after November 29, 2000.

The instant pending nonprovisional application was filed on June 7, 2004 and was pending at the time of the filing of the instant petition. While a reference pursuant to 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application 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 application to the prior-filed application was not included in the 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 the ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim of 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 submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78 (a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim of priority under 37 CFR 1.78 (a)(3).

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE
SUITE 1800
SALT LAKE CITY UT 84111

In re Application of	:	
Palu, et al.	:	
Application No. 10/862,828	:	DECISION ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 10209.582	:	

This is a decision on the "PETITION OF OMITTED ITEM UNDER 37 C.F.R. §1.17(H)", filed October 18, 2004, which is being treated as a petition under 37 C.F.R. 1.53 to accord the above-identified application a filing date of June 7, 2004, with page 14 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on June 7, 2004. However, on August 18, 2004, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application". Applicants were notified that the application papers had been accorded a filing date; however, page 14 of the specification appeared to have been omitted. In addition, the Notice informed applicants that the statutory basic filing fee and the oath or declaration were missing.

In response, applicant filed the instant petition. Accompanying the petition was a copy of page 14 of the specification. Applicants maintain that the application as originally filed included page 14. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Specification (52 pgs.)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of June 7, 2004, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 7, 2004, using the application papers received in the Office on that date and pages 14 of the specification as resupplied on petition filed October 18, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 04/20/2010

Applicant	: Scott L. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7635461	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1598** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Issam Raad	: DECISION ON REQUEST FOR
Patent Number	: 7601731	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

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DEC 27 2004

OFFICE OF PETITIONS

In re Application of
van den Berge et al
Application No. 10/862,849
Filed: June 7, 2004
Attorney Docket No. 97B070/5

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 CFR §1.182 TO CORRECT ERROR BY USPTO," filed August 31, 2004, requesting to have the specification and drawings of the instant application resubmitted into the pending application and to retain the initial filing date of June 7, 2004.

Application papers in the above-identified application were filed by way of deposit in the Express Mail service of the United States Postal Service on June 7, 2004. However, on July 30, 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 a complete specification as required by 35 U.S.C. 112 and without drawings as required by 35 U.S.C. 113.

In reply, applicants timely filed the instant petition. Applicants maintain that the error did not occur in Applicant's process, and that both specification and drawings, were received by the USPTO, and that both specification and drawings were lost or mislaid by the USPTO. In support thereof, applicants submit a copy of the front and back of their return postcard receipt, itemizing "48 Pages of Specification, 17 Pages of Claims (no. of claims 115) and 2 Sheets of Drawing/Figures" among the enclosures, bearing a USPTO date-stamp of June 7, 2004 with application No. assignment of 10/862849, and lacking any notation of non-receipt of any item listed. Included with the petition are a copy of the forty-eight (48) pages of specification, seventeen (17) pages of claims and two (2) sheets of drawing figures as petitioner maintains they were filed on June 7, 2004.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on June 7, 2004 included the papers identified on the postcard, which included a complete specification and drawings.

Thus, it is concluded that the application is entitled to a filing date of June 7, 2004.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 05-1712, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for:

- correction of the filing date to June 7, 2004, using the application papers received in the Office on that date, and the papers re-supplied on petition filed August 31, 2004 (48 pages of specification, 17 pages of claims, 2 sheets of drawings and 1 page of abstract).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/13/08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10862882 Patent No.: 7345662

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**.

You can fax the Directors/SPE response to 571-270-9990

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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MAR 0 3 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bates :
Application No. 10/862,902 :
Filed: June 7, 2004 :
Attorney Docket No. PA3448US :
For: SYSTEM AND METHOD FOR MINIMIZING DC OFFSET IN OUTPUTS OF AUDIO POWER AMPLIFIERS

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2005 (certificate of mailing December 5, 2005), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application action mailed August 2, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 3, 2004. A Notice of Abandonment was mailed on April 20, 2005.

Petitioner has submitted filing fees, an executed declaration, and a surcharge in reply to the August 2, 2004 Notice, an acceptable statement of the unintentional nature of the delay in responding to the August 2, 2004 Notice, and the required petition fee.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OCT 0 5 2005

WEINGRAM & ASSOCIATES P.C.
P.O. BOX 927
MAYWOOD NJ 07607

In re Application :
Joseph Grayzel et al :
Serial No.: 10/862,905 : DECISION ON PETITION
Filed: June 7, 2004 :
For: Percutaneous Entry System and Method:

This is in response to applicants' petition filed June 6, 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

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey Grayzel et al. :
Application No. 10/862,905 :
Filed: June 7, 2004 :
Attorney Docket No. 129338/00105 :

This is a decision on the petition filed December 12, 2006, under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of June 7, 2004, with page 29 of the specification as part of the original disclosure. The petition is also filed alternatively under 37 CFR 1.57.

Petitioner submits, *inter alia*, the present petition, petition fee, a copy of Page 29 of the specification and a copy of a returned, date-stamped postcard receipt acknowledging receipt of a 34 page specification. Petitioner argues that although the USPTO never sent out a Notice of Omitted Items, nor did the Examiner ever note that page 29 of the specification appeared to be omitted, their review of the application file reveals that there are in fact 34 pages making up the specification but in fact there are two identical sheets of page 28. Petitioner further argues that a complete 34 page specification, including page 29, was submitted on filing, as evidenced by the copy of the returned, date-stamped postcard receipt and the Utility Patent Application Transmittal.

The Office file is the official record of the papers originally filed in this application. A review of the original sheets of the specification in the official file [1] reveals that page 29 was not located among the application papers. A petitioner alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

A review of the record indicates that applicant did indeed file a 34 page specification. However, the 34 page specification did not include page 29, but rather consisted of two identical sheets of page 28. Therefore, page 29 cannot be considered a part of the original disclosure of the application because it was not present on June7, 2004;

[1] For the purpose of deciding the present petition, the Office obtained and reviewed the original papers submitted by applicant on June 2, 2005. Although the original paper drawing sheets were subsequently scanned into the Image File Wrapper Database, the USPTO retained a paper copy of the documents submitted on filing.

the date the application was filed. Accordingly, the application cannot be accorded the filing date of June 7, 2004, with Page 29 of the specification as part of the original disclosure.

Accordingly, the petition under 37 CFR 1.182 is **DISMISSED**.

With respect to the incorporation by reference request, petitioner is correct in noting that since this application was filed prior to September 21, 2004, relief under 37 CFR 1.57 is not appropriate, However;

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the
> specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing
> application to include any subject matter in such prior application(s), without the need for a petition. (Emphasis supplied).

In view of the incorporation by reference of a prior application , page 29 of the specification is not new matter **if** it was part of the disclosure of the prior application. Applicants may file an amendment to the examiner to include page 29 without a petition.

In view of the above, the petition alternatively filed under 37 CFR .157 is **DISMISSED**. The petition fee can not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of June 7, 2004, using only the papers submitted on that date. Page 29 of the specification filed with the petition on December 12, 2006, will not be entered at this time.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/19/2010

Applicant	: Dirk Debertin	: DECISION ON REQUEST FOR
Patent Number	: 7631303	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/862,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **710** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
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R. Lewis Gable
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036-6799

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OFFICE OF PETITIONS

In re Application of
Shmukler, et al.
Application No. 10/862,920
Filed: June 7, 2004
Attorney Docket No. 24568.018

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 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed 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 applications. While a reference to the prior-filed nonprovisional 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)(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)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

---

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to 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 referred to Technology Center AU 2176 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
Lead Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRONCUS TECHNOLOGIES, INC. C/O
LEVINE BAGADE HAN LLP
2400 GENG ROAD
SUITE 120
PALO ALTO CA 94303

In re Application of	:	
Cooper, et al.	:	
Application No. 10/862,933	:	DECISION ON PETITION
Filed: June 8, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BRONNE00900	:	

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. §120 and 37 C.F.R. 1.78(a)(2)", filed July 16, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application 09/908,177, filed July 18, 2001, set forth in the Application Data Sheet (ADS) 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 Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. 09/908,177.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/862,933	06/08/2004	3738	385	BRONNE00900	18	1

CONFIRMATION NO. 3865

CORRECTED FILING RECEIPT

OC000000037671233

74059
Broncus Technologies, Inc. c/o
Levine Bagade Han LLP
2400 Geng Road
Suite 120
Palo Alto, CA 94303

Date Mailed: 09/04/2009

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)

Joel D. Cooper, St. Louis, MO;
James M. Davenport, Fallbrook, CA;
Bryan Loomas, Los Gatos, CA;
Don Tanaka, Saratoga, CA;
Gary Kaplan, San Francisco, CA;

Assignment For Published Patent Application

Broncus Technologies, Inc., Mountain View, CA

Power of Attorney: The patent practitioners associated with Customer Number 40518

Domestic Priority data as claimed by applicant

This application is a DIV of 09/947,144 09/04/2001 PAT 7,175,644
which claims benefit of 60/269,130 02/14/2001
This application 10/862,933
is a CIP of 09/908,177 07/18/2001 ABN
which is a CON of 09/633,651 08/07/2000 PAT 6,692,494
which claims benefit of 60/147,528 08/05/1999
and claims benefit of 60/176,141 01/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/862,933**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Devices and methods for maintaining collateral channels in tissue

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. Box 1450
Alexandria, VA 22313-1450
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OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Giacobbe et al.	:	
Application No. 10/862,935	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 60021-379601	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed January 5, 2007, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Robert A JACOBY to Robert A. GIACOBBE.

A Corrected Filing Receipt, reflecting the above change, is enclosed.

This matter is being directed to Technology Center 3600 to await examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/862,935	06/08/2004	3627	1348	60021-379601	8	21	8

CONFIRMATION NO. 5264
CORRECTED FILING RECEIPT
OC000000022496801
OC000000022496801

29838
OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

Date Mailed: 02/13/2007

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)

Robert A. Giacobbe, Tucker, GA;
R. Douglas Derrick, Atlanta, GA;

Assignment For Published Patent Application

Accenture Global Services GmbH, Schaffhausen, SWITZERLAND

Power of Attorney: The patent practitioners associated with Customer Number **29838**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/577,547 06/07/2004

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/862,935

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Managing an inventory of service parts

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PITNEY HARDIN
7 TIMES SQUARE
NEW YORK, NY 10036-7311

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APR 27 2006
OFFICE OF PETITIONS

In re Application of	:	
James Mazur et al	:	
Application No. 10/862,942	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 488-194	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed March 27, 2006 and supplemented on April 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not comply with requirement (C). Numark's submission does not demonstrate that applicant, assignee, or attorney/agent registered to practice before the Office has made or caused to

be made a careful and thorough search of the prior art or has a good knowledge of the pertinent art. Further, assuming that Numark's search was the result of a "careful and thorough" search does not satisfy this requirement.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2626 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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PRO-TECHTOR INTERNATIONAL
20775 NORADA CT.
SARATOGA, CA 95070-3018

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JUL 29 2008

In re Application of	:	
S. C. CHANG, et al	:	
Application No. 10/862,957	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 1451026	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers (Notice) mailed December 27, 2005, which set a reply period of thirty (30) days. This period for reply is not extendable under 37 CFR 1.136(a) or 37 CFR 1.136 (b). Accordingly, the application became abandoned on January 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

With respect to item 1: A review of the record shows that the petition in the above-identified application was not accompanied by a proper reply as required by the Notice dated December 27, 2005. The instant petition lacks the required oath/declaration, which gives at least one full name of the first inventor. See 37 CFR 1.63(a)(2).

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.

A review of the record discloses that Ralph Willgohs was never given an appropriate power of attorney or authorization of agent to prosecute the above application, since the Revocation Power of Attorney filed on March 19, 2007, which appointed him, cannot be accepted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Irwin Boutboul	: DECISION ON REQUEST FOR
Patent Number	: 7631098	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1106** 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 : 3/30/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/862982 Patent No.: 6997994

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: _____

SPE

Art Unit

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Brian Manula	: DECISION ON REQUEST FOR
Patent Number	: 7639616	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/862,987	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SQUIRE SANDERS & DEMPSEY LLP
TWO RENAISSANCE SQUARE,
40 NORTH CENTRAL AVENUE,
SUITE 2700
PHOENIX, AZ 85004-4498

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DEC 15 2008

In re Application of	:	
John C. OPIE et al	:	
Application No. 10/863,009	:	DECISION ON PETITION
Filed: June 7, 2004	:	TO WITHDRAW
Attorney Docket No. 032303.00012	:	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 4, 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 Alex Starkovich behalf of the attorneys of record associated with Customer No. 23619.

The attorneys of record associated with Customer No. 23619 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of

the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN C. OPIE
8310 N. VIA DE LAGO
SCOTTSDALE, AZ 85258

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Michael W. MURPHY	:	
Application No. 10/863,015	:	DECISION ON PETITION
Filed: June 08, 2004	:	
Attorney Docket No. **8540G-000198**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1795 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Bjorn Dag Johnsen	: DECISION ON REQUEST FOR
Patent Number	: 7602712	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 090304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT - 8 2004

In re Application of:	:	
DAVID J. ERICKSON	:	
Serial No.: 10/863,018	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 08, 2004	:	FROM RECORD
Attorney Docket No.: **N0650-00621**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Maria Jurova	: DECISION ON REQUEST FOR
Patent Number	: 7571236	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 090204

SEP - 8 2004

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

In re Application of:	:	
BRIAN J. EDWARD *et al.*	:	
Serial No.: 10/863,028	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 08, 2004	:	FROM RECORD
Attorney Docket No.: **N0650-00528**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 06, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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GOFF PATENT LAW
8000 NE PARKWAY DR.
SUITE 200
VANCOUVER WA 98662

COPY MAILED

APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Cooper et al.	:	
Application No. 10/863,039	:	DECISION ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 0013-00022-03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application. A supplemental petition was also received on March 13, 2008.

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.

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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HONEYWELL
INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED

OCT 24 2006

OFFICE OF PETITIONS

In re Application of	:
David L. Malametz	:
Application No. 10/863,047	: DECISION GRANTING PETITION
Filed: June 7, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. H0006218	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of December 9, 2005, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2856.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
BLACK LOWE & GRAHAM
701 FIFTHA AVENUE, SUITE 4800
SEATTLE, WASHINGTON 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 23 2004

In re Application of	:	
William A. Clarke et al.	:	
Serial No. 10/863,049	:	DECISION ON PETITION
Filed: June 7, 2004	:	TO MAKE SPECIAL
For: CAROUSEL DEVICES	:	

Applicant's petition, filed August 11, 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

Richard K. Thomason
7691 Fairlane Drive
Fairview, PA 16415

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PROCOPIO, CORY, HARGREAVES & SAVITCH, LLP
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101-4469

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
David W. Johnson :
Application No. 10/863,080 :
Filed: June 8, 2004 :
Attorney Docket No. EBERT13 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/863,085	06/07/2004	2661	770	P2245US	3	3	1

CONFIRMATION NO. 5603

CORRECTED FILING RECEIPT

OC000000013725116

08968
GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Date Mailed: 09/03/2004

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)

Pertti O. Alapuranen, Melbourne, FL;

Assignment For Published Patent Application

MESHNETWORKS, INC., Maitland, FL

Power of Attorney: The patent practitioners associated with Customer Number **08968**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/475,883 06/05/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/02/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/863,085

Projected Publication Date: 12/16/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method for determining synchronization point in OFDM modems for accurate time of flight measurement

Preliminary Class

370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Chapman et al.	:	
Application No. 10/863,136	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. RPS920040076US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 10, 2005 (copy submitted on December 9, 2005), to revive the above-identified application. The petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed September 19, 2005, which set a shortened statutory period for reply of three (3) months. A reply was due on or before December 19, 2005.

A review of the application history shows that the Office action mailed September 19, 2005 was returned as undeliverable on October 31, 2005. According to MPEP 707.13, upon receipt of the returned Office action, the Technology Center technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. However, it appears no action was taken once the return mail was received.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. The $1500.00 petition fee will be credited to petitioner's deposit account as authorized.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This matter is being referred to the Technology Center technical support staff of Art Unit 2833 for remailing the Office action of September 19, 2005, and resetting the period for reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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NOV 1 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,134,972 :
Issue Date: November 14, 2006 :
Application No. 10/863,147 :
Filed: June 7, 2004 :
Attorney Docket No. 12587/3 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. David P. Lindner appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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10/07/04

In re Application of DEVITT. Serial Number: 10/863,158 Filed: June 7, 2004 For: ELECTRICAL STORAGE BATTERY	: : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed June 7, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Nikolai D. Tankov	: DECISION ON REQUEST FOR
Patent Number	: 7657658	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/863,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

APR 06 2010

OFFICE OF PETITIONS

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

In re Application of	:	
Mansharamini et al.	:	
Application No. 10/863,161	:	DECISION ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. P4506C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected drawings on or before December 16, 2009, as required by the Notice of Allowability, mailed September 16, 2009. Accordingly, the application became abandoned of December 17, 2009. A Notice of Abandonment was mailed January 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FEB 10 2005

In re Application of	:	
Sal Falciglia, Sr.	:	
Serial No. 10/863,166	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO MAKE SPECIAL
For: SYSTEM AND METHOD FOR	:	
PLAYING A MULTIPLE-ROW	:	
MATCHING GAME	:	

Applicant's petition, filed October 14, 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. R. Kazenske, Director
Technology Center 3700

George Likourezos, Esq.
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Melville, NY 11747

FILE COPY

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/863,183	06/07/2004	2661	770	P2255US	4	3	1

CONFIRMATION NO. 5442

CORRECTED FILING RECEIPT

OC000000013725848

08968
GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Date Mailed: 09/03/2004

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)

Avinash Joshi, Orlando, FL;

Assignment For Published Patent Application

MESHNETWORKS, INC., Maitland, FL

Power of Attorney: The patent practitioners associated with Customer Number **08968**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/546,940 02/24/2004
and claims benefit of 60/546,941 02/24/2004
and claims benefit of 60/476,237 06/06/2003
and claims benefit of 60/476,236 06/06/2003
and claims benefit of 60/475,882 06/05/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/01/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/863,183

Projected Publication Date: 12/16/2004

Non-Publication Request: No

Early Publication Request: No

Title

System and method to improve the network performance of a wireless communications network by finding an optimal route between a source and a destination

Preliminary Class

370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
David C. Majercak, et al. :
Application No. 10/863,192 :
Filed: June 8, 2004 :
Attorney Docket No. CRD-973-CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed April 28, 2005 and on the petition under 37 CFR 1.182 to Expedite, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 3, 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 October 4, 2004.

A review of the file record discloses that the office did not receive the petition to expedite in a timely fashion; therefore, the petition to expedite fee will be refunded back to petitioner's deposit account. The USPTO wishes to apologize for any inconvenience this error may have caused petitioner.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Office of Initial Patent Examination 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

Commissioner for Patents
United States Patent and Trademark Office
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WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON DC 20006

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of	:
Le Vaillant et al	:
Application No. 10/863,193	: DECISION GRANTING STATUS
Filed: June 7, 2004	: UNDER 37 CFR 1.47(A)
For: METHODS FOR PRODUCING A	:
SEMICONDUCTOR ENTITY	:

This is in response to the petition under 37 CFR 1.47(a), filed December 3, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Karen Creasy at (571) 272-3208.

This matter is being referred to Technology Center AU 2891.

Karen Creasy for

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Toshihiro Takagi	: DECISION ON REQUEST FOR
Patent Number	: 7596299	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1512** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Paul A. M. Bune	: DECISION ON REQUEST FOR
Patent Number	: 7607054	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,233	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1344** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Yoshiharu Hirakata	:	
Application No. 10/863,271	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. 0756-7335	:	

This is a decision on the petition, filed May 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 30, 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 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. _____

Date : May 15, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshiharu Hirakata
Application No. :10/863,271
Filed :June 9, 2004

The above-identified application has been assigned Patent No. 7,053,878 and an issue date of May 30, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 30, 2006:

"All reference to Patent No. 7,053,878 to Yoshiharu Hirakata of Japan for ACTIVE MATRIX TYPE DISPLAY DEVICE appearing in the Official Gazette of May 30, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/15/09

TO SPE OF : ART UNIT 3749 Wilson, Gregory

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/863319 Patent No.: 7032542

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No.: _____ Patent No.: _____

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Steven B. McAllister/
SPE, Art Unit 3749

SPE — 3749 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Andreas Muno	: DECISION ON REQUEST FOR
Patent Number	: 7660801	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,354	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

BUCHANAN, INGERSOLL & ROONEY PC
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ALEXANDRIA VA 22313-1404

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Che et al.	:	
Application No. 10/863,362	:	DECISION ON
Filed: June 9, 2004	:	PETITION
Atty Docket No. 000401-181	:	

This is a decision on the PETITION UNDER 37 C.F.R. §1.181(a) REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT filed May 2, 2008.

The above-identified application became abandoned for failure to file a reply to the final Office action mailed June 20, 2007. It is noted that at that time Office action were delivered to applicants by mail. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned. A courtesy Notice of Abandonment was mailed on March 18, 2008.

In response, applicants filed the instant petition, asserting that the final Office action was never received at the correspondence address of record. The practitioner states that he has reviewed the file jacket and docket records for September 20, 2007 (the three-month date for which the Office action would have been docketed) and confirms that no Office letter bearing a mailing date of June 20, 2007 or docketing entry is present. In support thereof, a copy of the firm's docket record for September 20, 2007 is submitted. Further, practitioner notes that a copy of the Office action is present in the application with a date of receipt of June 22, 2007. Practitioner states

that this evidences that the Office action was returned to the Office and not received by applicants.

The copy of the Office action in the file may suggest an irregularity in the mailing of the Office action mailed June 20, 2007. However, the record is not clear as to whether this is a copy of the Office action as returned to the Office undeliverable. This evidence raises a question as to whether the correspondence was properly mailed to the applicant at the correspondence address of record.

Nonetheless, regardless of whether an irregularity has been established, petitioner's evidence is sufficient to overcome the presumption that the correspondence was properly mailed to the correspondence address of record. To overcome the presumption, the following showing is required:

> 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.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed March 18, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1792 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed June 20, 2007 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DICKIE, McCAMEY, & CHILCOTE, P.C.
ATTN: DARREN E. WOLF, ESQUIRE
400 TWO PPG PLACE
PITTSBURGH, PA 15222

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Bortz	:	
Application No. 10/863,386	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. 990607MBCON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on February 1, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 21, 2006. A Notice of Abandonment was mailed on January 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $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

Commissioner for Patents
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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON NY 11743

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OFFICE OF PETITIONS

In re Application of	:	
Helmut Weber et al	:	
Application No. 10/863,404	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 3032	:	

This is a decision on the petition, filed June 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3765 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080829

DATE : August 29, 2008

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction on Patent No.: 6,983,625

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:

/GARY L WELCH/
Supervisory Patent Examiner.Art Unit 3765

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Wang, et al. :
Application No. 10/863,412 : ON PETITION
Filed: June 7, 2004 :
Attorney Docket No. N/A :
For: MODULAR JACK HAVING ELECTRICAL WIRES THROUGH A SIDE WALL THEREOF

This is a decision on the petition under 37 CFR 1.181, filed March 29, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Election/Restriction Office action, mailed July 12, 2005, which set forth an extendable one (1) month period for reply. The Office contended that this application became abandoned on August 13, 2005 for failure to reply to the July 12, 2005 Office action. A Notice of Abandonment was mailed on March 24, 2006.

Petitioners assert a proper reply was timely transmitted via facsimile to and received by the Office on August 12, 2005. The undersigned finds this assertion completely convincing as the August 12, 2005 correspondence is present in the application file. Applicants elected claims 8 and 9 for prosecution and requested the examiner reconsider the election requirement.

The petition under 37 CFR 1.181 is **granted** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2839 for consideration of the August 12, 2005 election and request for reconsideration of the election requirement.

Telephone 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUN 27 2005

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of	:	DECISION ON PETITION
Frank Sauer	:	
Application No. 10/863,414	:	
Filed: June 8, 2004	:	
Title of Invention:	:	
CALIBRATING REAL AND	:	
VIRTUAL VIEWS	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed May 27, 2005.

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 Provisional Application (hereinafter "Notice"), mailed August 30, 2004. The Notice required an executed oath or declaration and a late filing fee oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned October 31, 2004. A Notice of Abandonment was mailed April 20, 2005.

With the instant petition, Applicant files an executed oath/declaration and the appropriate fees.

Accordingly, the petition is granted.

The application file is being referred 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
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10863414 Patent No.: 7369101 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: CERTIFICATE OF CORRECTION APPROVED

2629

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2629
Art Unit

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ALEXANDRIA, VA 22313-1450
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JUL 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: OGAWA, et al.
Application No. 10/863,426
Filed: June 7, 2004
For: STORAGE CAPABLE OF CACHE ASSIGNMENT MODIFICATION

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 May 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

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OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Application of :
TSUNG MIN WU et al. :
Application No. 10/863,468 :
Filed: June 09, 2004 :
Attorney Docket No. MR1939-104 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 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 Fee of $700 and publication fee of $300; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and publication fee payment are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

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
DIW 09-04

JAMES F. COTTONE
SUITE 403
CRYSTAL PLAZA ONE
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of Cochran et al. Application No. 10/863,489 Filed: 9 June, 2004 Atty Docket No. JCJLC0604A	DECISION DISMISSING PETITION

This is a decision on the petition filed on 27 August, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of 9 June, 2004, with Figures 1-5 described in the specification as a part of the original disclosure.

On 9 June, 2004, the above-identified application was filed. However, on 2 August, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of 9 June, 2004, and advising applicant that Figures 1-5 described in the specification appeared to have been omitted.

In response, on 27 August, 2004, applicant filed the present petition, a $130.00 petition fee, and a copy of five (5) drawing sheets containing Figures 1, 2, 3A-3D, 4A-4D, 5, 6, 7A-7C, and 8. Petitioners request that the application, including Figures 1-5, be accorded a filing date of 9 June, 2004.

Petitioners state that the omitted items were "constructively filed" with the application papers in that they were included in Application No. 60/477,846, which is incorporated by reference in the present application.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard

receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing Figures were deposited on 9 June, 2004, nor request the 27 August, 2004, (the date the missing Figures were supplied) filing date. Rather, petitioners assert that the missing figures were part of a copending application which the present application incorporated by reference.

It is noted that Page 11 of the specification filed with the original application papers states that the present application is a claims the benefit of Application No. 60/477,846, "and the full text, drawings and claims of that provisional application are incorporated in full herein by reference."

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 1-5 described in the specification are not new matter if they was a part of the disclosure of the prior application.

Accordingly, the petition is dismissed.

The sheets of drawings submitted with the the present petition on 27 August, 2004, will not be entered or used during the prosecution of this application, but will be retained in the application file. However, applicant may resubmit the omitted sheets as an amendment for consideration by the examiner under Sections 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 9 June, 2004, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/23/08

DATE : **10/9/08**

TO SPE OF : ART UNIT **1651 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/863,517** Patent No.: **7,425,440**

Attn: Debbie Ware

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

***ATTN: Ok to enter changes as requested in the COCIN?**

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: Confirmed no method claims so ok to print drawing on front cover of patent. Dav 1651
Also confirmed no new matter

dkw 10/23/08

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Chow, Alan Y.	:	DECISION ON PETITION
Application No. 10/863,519	:	TO WITHDRAW
Filed: June 9, 2004	:	FROM RECORD
Attorney Docket No. 3614-209	:	

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 27, 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 Vincent J. Gnoffo on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest.

Further, the Power of Attorney submitted on April 17, 2006 is hereby not accepted due to the lack of a Statement under 37 CFR 3.73(b). Applicant is reminded that there is no attorney of record at this time. Accordingly, all future correspondence will directed to the first named inventor, Alan Y. Chow, at the first address indicated below.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

ALAN Y. CHOW
191 PALAMINO PLACE
WHEATON, IL 60187

VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Mitchell S. Steiner et al	:	
Application No. 10/863,524	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. P-5235-US18	:	

This is a decision on the petition, filed August 24, 2006, and supplemented on August 30, 2006, under 37 CFR 1.313(c)(3) 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 express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 31, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

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AUG 31 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mitchell S. Steiner et al
Application No. :10/863,524
Filed :June 9, 2004

The above-identified application has been assigned Patent No. 7,109,368 and an issue date of September 19, 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 September 19, 2006:

"All reference to Patent No. 7,109,368 to Mitchell S. Steiner et al of Tennessee for SELECTIVE ANDROGEN RECEPTOR MODULATORS AND METHODS OF USE THEREOF appearing in the Official Gazette of September 19, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Barbara J. Carter
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/863592 received on 07/07/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Barbara J. Carter
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/863594 received on 07/07/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of
Difranza et al.
Application No. 10/863,601
Filed: June 8, 2004
Attorney Docket No. 09651-003005

Decision on Petition

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 17, 2005, to accept as timely the unintentionally delayed priority claims set forth in the concurrently filed amendment.

The petition is **dismissed**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on October 8, 2004. The priority claims at issue were not made by that date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) which allows one to make late priority claims if certain criteria are satisfied.

Per 37 CFR 1.78(a)(3), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(1) The reference required by 37 CFR 1.78(a)(2), 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 paragraph (a)(2)(ii) of this section 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 fails to comply with item (1) above. The petition is not accompanied by a reference to the prior-filed application in:

(1) a *proper* amendment to the first line of the specification following the title as required by 37 CFR 1.78(a)(2)(iii), or
(2) an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6).

The amendment submitted concurrently with the instant petition is not considered a proper reference under 37 CFR 1.78(a)(2). The "amendment" filed with the petition is physically embedded in the instant petition and does not begin on a separate sheet of paper. However, a proper amendment must begin on a separate sheet of paper. 37 CFR 1.121 provides, "Each section of an amendment document (e.g., amendment to the claims, amendment to the specification, replacement drawings, and remarks) must begin on a separate sheet." 37 CFR 1.4(c) states, "each distinct subject, inquiry or order must be contained in a separate paper."

A renewed petition should be filed with a proper amendment **or** an ADS.

The petition fee of $1,370 has been charged to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
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 this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of
Difranza et al.
Application No. 10/863,601
Filed: June 8, 2004
Attorney Docket No. 09651-003005

Decision on Petition

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 29, 2005, to accept as timely the unintentionally delayed priority claims set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on October 8, 2004. The priority claims at issue were not made by that date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) which allows one to make late priority claims if certain criteria are satisfied.

Per 37 CFR 1.78(a)(3), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(1) The reference required by 37 CFR 1.78(a)(2), 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 paragraph (a)(2)(ii) of this section 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.

Petitioner has satisfied the requirements listed above.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

This application is being forwarded to Technology Center Art Unit 2837 for appropriate action on the amendment submitted August 29, 2005. The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
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
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GRAYBEAL JACKSON HALEY LLP
Suite. 350
155-108th Avenue N.E.
Bellevue, WA 98004-5973

Mail Date: 04/21/2010

Applicant	: Michele Portico Ambrosio	: DECISION ON REQUEST FOR
Patent Number	: 7582892	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1442** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 09-04

Paper No: __

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

COPY MAILED

SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Klaseboer, et al.	:	
Application No. 10/863,641	:	DECISION ON PETITION
Filed: 8 June, 2004	:	
Attorney Docket No.: 83377.0011	:	

This is a decision on the petition filed on 24 August, 2004, to correct the Express Mail filing date under 37 C.F.R. §1.10, and seeking for the above-identified application a filing date of 8 June, 2004, instead of the presently accorded filing date of 9 June, 2004.

The petition is **GRANTED**, and the petition fee is waived.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 9 June, 2004, and given a filing date of 9 June, 2004; and

- Petitioner Troy M. Schmelzer (Reg. No. 36,667) submits a petition and statement, and supplements the pleadings with a copy of the US Postal Service (USPS) Express Mail receipt (paper tape) bearing Label No. EV547773647US, which number also appears on the first/transmittal page of the application; and

- a USPS "Track & Confirm" Shipment Details printout (copy enclosed) obtained by the Office evidences "ACCEPTANCE, LOS ANGELES CA 90009 06/08/04 5:26 P.M.."

  (Petitioner may find that obtaining this document from the USPS website shortly after delivery a valuable practice in support of petitions such as this–particularly when documents such as the mail label are unavailable or yield poor reproductions.)

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/863,641, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 8 June, 2004; and
- issue a filing receipt specifying the filing date as that of 8 June, 2004.

The instant application is released to OIPE to be handled as set forth above before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: USPS "Track & Confirm" Shipment Details

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/863,641	06/08/2004	3746	1032	83377.0011	4	25	5

CONFIRMATION NO. 2712

CORRECTED FILING RECEIPT

OC000000013800711

000026021
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Date Mailed: 09/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Evert Klaseboer, Singapore, SINGAPORE;
Cheng Wang, Singapore, SINGAPORE;
Kin Chew Hung, Singapore, SINGAPORE;
Boo Cheong Khoo, Singapore, SINGAPORE;

Assignment For Published Patent Application

INSTITUTE OF HIGH PERFORMANCE COMPUTING
NATIONAL UNIVERSITY OF SINGAPORE

Power of Attorney: The patent practitioners associated with Customer Number **000026021**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/230,645 08/29/2002 ABN

Foreign Applications

SINGAPORE 200202052-7 04/08/2002

If Required, Foreign Filing License Granted: 07/30/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/863,641

Projected Publication Date: 11/11/2004

Non-Publication Request: No

Early Publication Request: No

Title

Liquid ejection pump system

Preliminary Class

417

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Alexandria, VA 22313-1450
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CHERNOFF, VILHAUER, MCCLUNG
& STENZEL, LLP
601 SW SECOND AVENUE
SUITE 1600
PORTLAND OR 97204-3157

COPY MAILED

NOV 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Evan M. DUDIK et al.	:	
Application No. 10/863,644	:	DECISION ON PETITION
Filed: June 08, 2004	:	
Attorney Docket No. 9147.0006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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 10, 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 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/460,300 filed July 15, 2009.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1645 for processing of the divisional application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,471,484
Inventor(s) : Wachenschwanz
Issued : June 7,2004
Title : PATTERNED MEDIUM AND RECORDING HEAD
Docket No. : M3200.C1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1572** or (703) 305-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

JUN 30 2010

OFFICE OF PETITIONS

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: LESLEY NING
20511 LAKE FOREST DR.
E-118G
LAKE FOREST CA 92630

In re Patent No. 7,471,484	:	
Issue Date: December 30, 2008	:	
Application No. 10/863,648	:	DECISION ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. M3200.C1	:	

This is a decision on the petition, filed, January 15, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are WD Media, Inc. and Maxtor Corporation. The assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that WD Media, Inc. and Maxtor Corporation were the assignees of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

Petitioner should note that the Certificate of Correction fee of $100 and processing fee of $130 will be charged to petitioner's deposit account as authorized.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/863,664	06/07/2004	2681	878	42P18326	4	26	3

CONFIRMATION NO. 4897

CORRECTED FILING RECEIPT

OC000000013941107

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/30/2004

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)

Bjarke Goth, Roskilde Sj., DENMARK;
Tore Sejr Joergensen, Taastrup, DENMARK;

Power of Attorney:

STANLEY WILLIAM SOKOLOFF–25128
Edwin Taylor–25129
ROGER W. BLAKELY JR.–25831
NORMAN ZAFMAN–26250
Eric Hyman–30139
James C. Scheller Jr.–31195
Lester J. Vincent–31460
Alan K. Aldous–31905
George Hoover II–32992
Gordon R. Lindeen III–33192

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/02/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/863,664

Projected Publication Date: 12/08/2005

Non-Publication Request: No

Early Publication Request: No

Title

Techniques to adjust vertical offset

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

THE HOOVER COMPANY
101 EAST MAPLE STREET
NORTH CANTON, OH 44720

COPY MAILED

JUL 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Vincent L. Weber et al	:	ON PETITION
Application No. 10/863,674	:	
Filed: June 8, 2004	:	
Attorney Docket No. 2578A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed September 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

There is no indication that petitioner has submitted a Part B - Fee(s) Transmittal Form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

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

Wan Laymon
Petitions Examiner
Office of Petitions

Attachment: PTOL-85

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDY K. BUSKOP
BUSKOP LAW GROUP, P.C.
SUITE 500
1717 ST. JAMES PLACE
HOUSTON, TX 77056

COPY MAILED

NOV 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Ronald Alan Charles	:	
Application No. 10/863,677	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 1268.03	:	

This is a decision on the papers styled "Petition; and Response to Notice of Missing Parts In a Nonprovisional Application" filed November 2, 2004 (originally submitted October 12, 2004), which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of June 8, 2004, including the executed declaration.

The application was submitted on June 8, 2004. However, on September 22, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Missing Parts In a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that the oath or declaration is missing. Furthermore, a "Notice of Incomplete Reply" was mailed on October 26, 2004.

In response, on November 2, 2004, the instant petition was submitted. Petitioner argues that an executed declaration was filed on June 8, 2004. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of a Declaration on June 8, 2004. A declaration submitted on June 8, 2004 has not been found in the application file. It is assumed that missing declaration was misplaced by the Office.

In view of the above, the petition is granted.

Accordingly, the Notice To File Missing Parts is hereby withdrawn. As such, the $65.00 late oath or declaration

Surcharge, submitted October 12, 2004, will be refunded to deposit account no. 50-1313.

This application will be returned to OIPE for further processing with a filing date of June 8, 2004, using copy of the declaration, supplied on November 2, 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 22313-145

MAILED
FROM DIRECTORS OFFICE

JUN 14 2005

TECHNOLOGY CENTER 3600

FULLIN LEGAL SERVICES LLC
711 N. Milwaukee Avenue
Libertyville, IL 60048

In re application of
Gregory E. Lehn
Application No. 10/863,686 :
Filed: June 08, 2004 :
For: COLUMN FOR WOOD SIDING :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 30, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "I have accepted a position as in-house counsel at Circle Group Holdings, Inc. Further representation in this matter would be inappropriate", is not appropriate since it is not clear what makes representing the client inappropriate, furthermore it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided. If accepting the above-noted position qualifies as a proper reason for withdrawal, an explanation of which portion of 37 CFR 10.40 it would apply to is required.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/26/05

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Commissioner for Patents
United States Patent and Trademark Office
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MAY -6 2005

In re Application of	:	
Gregory E. Lehn	:	
Serial No. 10/863,687	:	DECISION ON
Filed: June 8, 2004	:	PETITION TO WITHDRAW
For: ENDPIECE FOR WOOD SIDING	:	AS ATTORNEY

By papers filed on March 30, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Mr. Gregory E. Lehn
1124 Pine Tree Lane
Libertyville, IL 60048

Donna Magaha
Office of the Director
Technology Center 3700

Timothy J. Fullin
Fullin Legal Services
711 North Milwaukee Avenue
Libertyville, IL 60048

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen Chung et al.	:	
Application No. 10/863,700	:	DECISION ON PETITION
Filed: June 7, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 64,600-121	:	

This is a decision on the petition under 37 CFR 1.55(c), filed September 30, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of Taiwan (ROC) Patent Application Nos. 092116839, filed on June 20, 2003.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on June 7, 2004, which is after November 29, 2000 and within 12 months of June 30, 2003, the filing date of the foreign application to which benefit is now being claimed. On September 30, 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A Corrected Filing Receipt, which reflects the above-noted foreign application, accompanies this decision on petition.

This matter is being referred to Technology Center AU 2818 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Date: August 14, 2006

Clark A. Jablon
AKIN GUMP STRAUSS HAUER & FELD, LLP
One Commerce Square, Suite 2200
2005 Market Street
Philadelphia, PA 19103

Patent No: 7064427 B2
Application No: 10/863700
Applicant: Stephen Chung, et al.
Issued: June 20, 2006
Title: **BURIED ARRAY CAPACITOR AND MICROELECTRONIC STRUCTURE INCORPORATING THE SAME**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.323.

Inspection of the inventors, of the application for the above patent reveals that the patent is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certification of Correction Branch.

Virgina Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

In re Application of	:	
Eshraghi et al	:	
Application No. 10/863,705	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 4172-124	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed June 7, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states, "The electrochemical cells of the invention include fuel cell embodiments having the potential to achieve practical implementation as power supplies in automotive/vehicular and other (e.g., home, consumer products, industrial, emergency management, etc.) applications." The statement lacks any specifics about how the invention materially contributes to item (B), above. Without specific details about how the invention functions, the above statements are inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources." The contribution of petitioner's invention does not rise to the level intended by the Rule.

Further, the materially standard does not permit an applicant to speculate as to how an invention could hypothetically be more efficient and conserve more energy resources.

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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1745 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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AMSTED INDUSTRIES INCORPORATED
TWO PRUDENTIAL PLAZA
SUITE 1800
180 NORTH STETSON STREET
CHICAGO, IL 60601

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles L. Van Auken	:	
Application No. 10/863,712	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 6263	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed April 21, 2005. Accordingly, this application became abandoned on July 22, 2005. A Notice of Abandonment was mailed on November 23, 2005.

The file is being forwarded to Technology Center 3600 for review of the amendment filed December 7, 2005, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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POPOVICH, WILES & O'CONNELL, PA
8519 EAGLE POINT BLVD
Suite 180
LAKE ELMO, MN 55042

Mail Date: 04/26/2010

Applicant	: John C. Oslund	: DECISION ON REQUEST FOR
Patent Number	: 7572271	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/863,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1404** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Kojima et al.	:	
Application No. 10/863,778	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. 040274	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PRICE & ADAMS, P.C.
4135 BROWNSVILLE ROAD
P.O. BOX 98127
PITTSBURGH PA 15227-0127

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of	:	
DeVall, Donald L.	:	
Application No. 10/863,789	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 8927	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of Donald L. DeVall's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Boulevard
Houston, TX 77018

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Victor M. Franco	:	
Application No. 10/863,790	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on May 30, 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 October 4, 2005. A Notice of Abandonment was mailed on February 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to 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

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OCT 15 2007

OFFICE OF PETITIONS

Emery L.Tracy
P.O. Box 1518
Boulder CO 80306-1518

In re Application of	:	
Tony W. Mears	:	
Application No. 10/863,795	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. F012.PAT-10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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 January 20, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $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 3617 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DEC 23 2005

Ralph Bishop
2 Point Lane
PO BOX 875
Shelter Island NY 11964

In re Application of: Bishop	:	
Appl. No.:10/863796	:	DECISION ON PETITION
Filed: June 8, 2004	:	
For: SAW BLADE WITH VARIOUS	:	
FINISHING ELEMENTS	:	

This application has come before the Director pursuant to telephone conversations with pro-se petitioner Mr. Ralph Bishop on December 5, 2005. This conversation has been construed as a petition by which petitioner requests acceptance of a response to a notice of non-responsive amendment as being timely received by the Office due to non-receipt of the second notice of non-responsive amendment. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Review of the file history shows a non-final office action was mailed to petitioner on February 9, 2005. Petitioner responded to the office action on April 20, 2005. This response was considered non-compliant with 37 CFR 1.121 as to form, and petitioner was so notified on May 2, 2005. A second response was received from petitioner on May 21, 2005. This response was also considered non-compliant with 37 CFR 1.121 as to form, and petitioner was so notified in a second notice mailed June 6, 2005. Petitioner contacted the examiner via phone in October to inquire as to the status of his response and was told a second notice of non-compliant amendment had been mailed in June. Petitioner stated he never received the second notice, and petitioner subsequently filed a response on October 13, 2005. The file comes before the director as a question of the timeliness of the response given petitioner's statements due to lack of receipt of the second notice.

It appears from conversations with pro-se petitioner that the Office letter in question, mailed June 6, 2005 was never received by petitioner. This conclusion is reached based upon petitioners statements as to the nature of US Postal service to the island of petitioner's residence and petitioner's verbal averment that the letter was not received. Accordingly, it appears that petitioner is entitled to have the Office letter dated June 6, 2005 remailed. However, petitioner has also filed a response to the June 6, 2005 notice, based upon conversations with the examiner of record. This response appears compliant with 37 CFR 1.121, at least to the point of the examiner's discretion. See Acceptance of Certain Non-Compliant Amendments Under 37 CFR 1.121, (signed June 6, 2005) at 1296 OG 27, July 5, 2005. Therefore, physical re-mailing of the

Office letter in question is not necessary, and the response filed on October 13, 2005 will be accepted as timely filed.

The application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that the paper of June 6, 2005 has been remailed as of August 13, 2005. The response filed on October 13, 2005 will thereafter be entered in the application file as a timely response, and the application will be forwarded to the examiner for action on the application.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of :
Oren Shoham :
Application No. 10/863,812 : DECISION ON PETITION
Filed: June 7, 2004 : TO WITHDRAW
Attorney Docket No. 017900-004010US : 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 16, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because customer number 59734 cannot be used to withdraw the attorneys of record. Customer number 20350 appointed the attorneys of record.

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: **SAP AG**
c/o Buckley, Maschoff & Tal Walkar LLC
50 Locust Avenue
New Canaan, CT 06840

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of :
Bruesewitz et al. :
Application No. 10/863,813 : DECISION GRANTING PETITION
Filed: 7 June, 2004 :
Attorney Docket No. 16222U-015810US:

This is a decision on the petition, filed on 27 December, 2004, 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 1 July, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this 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.

This application is being referred to the Office of Initial Patent Examination for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Sreedhar V. POTARAZU, et al	:	
Application No. 10/863,819	:	DECISION ON PETITION
Filed: June 9, 2004	:	TO WITHDRAW
Attorney Docket No. VITL-001/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 23, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Applicant's representatives have disengaged from representation, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. SUDHIR ANANDARAO
VITALSPRING TECHNOLOGIES
1750 TYSONS BOULEVARD
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD KRONISH LLP
ATTN : PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

COPY MAILED

APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Sreedhar V. POTARAZU, et al	:	
Application No. 10/863,819	:	DECISION ON PETITION
Filed: June 9, 2004	:	TO WITHDRAW
Attorney Docket No. VITL-001/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cooley, Godward, Kronish, LLP, has been revoked by the assignee of the patent application on December 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SUDHIR ANANDARAO
VITALSPRING TECHNOLOGIES
1750 TYSONS BOULEVARD
MCLEAN, VA 22102

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
10/863,819	06/09/2004	Sreedhar V. Potarazu	VITL-001/00US

CONFIRMATION NO. 4070

VITALSPRING TECHNOLOGIES
8260 GREENSBORO DRIVE, SUITE 100
MCLEAN, VA 22102

POA ACCEPTANCE LETTER

OC000000029658795

Date Mailed: 04/30/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2007.

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.

/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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/863,819	06/09/2004	Sreedhar V. Potarazu	VITL-001/00US

CONFIRMATION NO. 4070

POWER OF ATTORNEY NOTICE

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

OC000000029658794

Date Mailed: 04/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Hollingsworth & Funk, LLC
Suite 125
8009 34th Avenue South
Minneapolis, MN 55425

Mail Date: 04/21/2010

Applicant	: Imad Libbus	: DECISION ON REQUEST FOR
Patent Number	: 7596413	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** 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

NAVAL UNDERSEA
WARFARE CENTER DIVISION NEWPORT
1176 HOWELL STREET
CODE 000C
NEWPORT RI 02841

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Francis J. O'Brien Jr.	:	
Application No. 10/863,840	:	DECISION GRANTING PETITION
Filed: June 1, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 83047	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 21, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

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
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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: Ronald R. Price	: DECISION ON REQUEST FOR
Patent Number	: 7670651	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,848	: OF WYETH
Filed	: 06/04/2004	:
		:

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

Paper No. None

COHEN SAKAGUCHI & ENGLISH LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz
Application No. 10/863,862
Filed: June 7, 2004
Attorney Docket No. ARB-9015
Title: MEANS AND METHOD OF REPLACING A HEART VALVE IN A MINIMALLY INVASIVE MANNER

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 13, 2004.

On June 7, 2004, the reissue application was filed, identifying Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz as joint inventors. The application was deposited with a declaration pursuant to 37 C.F.R. §1.175 which was executed by joint inventors Williamson and Ortiz. On August 9, 2004, a "Notice to File Missing Parts of Reissue Application – Filing Date Granted" (Notice) was mailed, indicating that the signatures of Messrs.

[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.

Spence and Christakis were missing, and that a fully executed oath or declaration and a surcharge were required. This Notice set a two-month period for reply.
Along with the instant petition, Petitioner has submitted the petition fee, the surcharge, a statement of facts, a declaration which has been executed by joint inventors Williamson and Spence, the last known address of the non-signing inventor, and a copy of a letter. A three-month extension of time has been charged to Petitioner's Deposit Account to make timely this response.

Petitioner has further included an offer to surrender the original patent, pursuant to 37 C.F.R. §1.178, which has been signed by two of the four joint inventors. This offer to surrender is no longer needed, as the rules have been revised such that it is no longer required that the reissue applicant physically surrender the original patent.[2]

The petition has met requirements (1) – (4) above.

Regarding the fifth requirement, petitioner has not submitted a declaration which complies with 37 CFR §§1.63 and 1.178. The declaration submitted with the instant petition contains a non-initialed and non-dated change by joint inventor Williamson[3].

For this reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a properly executed declaration along with a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

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2 See Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 69 FR 56482 (Sept. 21, 2004), 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004) (final rule).
3 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).
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 (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.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. None

COHEN SAKAGUCHI & ENGLISH LLP
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IRVINE CA 92614

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz
Application No. 10/863,862
Filed: June 7, 2004
Attorney Docket No. ARB-9015
Title: MEANS AND METHOD OF REPLACING A HEART VALVE IN A MINIMALLY INVASIVE MANNER

DECISION ON RENEWED PETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed March 17, 2005.

On June 7, 2004, the reissue application was filed, identifying Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz as joint inventors. The application was deposited with a declaration pursuant to 37 C.F.R. §1.175 which was executed by joint inventors Williamson and Ortiz. On August 9, 2004, a "Notice to File Missing Parts of Reissue Application – Filing Date Granted" (Notice) was mailed, indicating that the signatures of Messrs.

[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.

Spence and Christakis were missing, and that a fully executed oath or declaration and a surcharge were required. This Notice set a two-month period for reply.

Along with the original petition, Petitioner submitted a declaration which was executed by joint inventors Williamson and Spence.

The original petition, submitted on December 13, 2004, was dismissed via the mailing of a decision on March 11, 2005, for failure to include an acceptable declaration, in that the declaration submitted with the original petition contained a non-initialed and non-dated change by joint inventor Williamson.

With this renewed petition, a substitute declaration has been submitted.

It is noted that the decision on the original petition contains an error. The decision indicated that the declaration "submitted with the instant petition contains a non-initialed and non-dated change by joint inventor Williamson, (emphasis added)" when the non-initialed and non-dated change was in fact made by Mr. Spence.

The Office regrets this mistake.

Therefore, Petitioner will need to either submit a declaration which contains Mr. Spence's required annotations over the change, or a declaration which incorporates the correct citizenship information for Mr. Spence. If the latter is supplied, the new declaration must be signed by Mr. Spence, but need not be executed by the other signing joint inventors.

For this reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a properly executed declaration along with a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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].

---

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 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

---

the facsimile to the undersigned, which could be as much as one month.

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Paper No. None

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2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz
Application No. 10/863,862
Filed: June 7, 2004
Attorney Docket No. ARB-9015
Title: MEANS AND METHOD OF REPLACING A HEART VALVE IN A MINIMALLY INVASIVE MANNER

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 22, 2005.

On June 7, 2004, the reissue application was filed, identifying Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz as joint inventors. The application was deposited with a declaration pursuant to 37 C.F.R. §1.175 which was executed by joint inventors Williamson and Ortiz. On August 9, 2004, a "Notice to File Missing Parts of Reissue

[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.

Application – Filing Date Granted" (Notice) was mailed, indicating that the signatures of Messrs. Spence and Christakis were missing, and that a fully executed oath or declaration and a surcharge were required. This Notice set a two-month period for reply.

Along with the original petition, Petitioner submitted a declaration which was executed by joint inventors Williamson and Spence.

The original petition, submitted on December 13, 2004, was dismissed via the mailing of a decision on March 11, 2005, for failure to include an acceptable declaration, in that the declaration submitted with the original petition contained a non-initialed and non-dated change by joint inventor Williamson.

With the renewed petition filed March 17, 2005, a substitute declaration was submitted.

On March 31, 2005, a decision was mailed which dismissed this petition.

With this second renewed petition, Petitioner has met each of the 5 requirements above.

The second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to 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

George T. Christakis
6 Pine Hill Road
Toronto, Ontario M4W1P6
CANADA

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Warren P. Williamson, Paul A. Spence, George T. Christakis, and Mark Ortiz
Application No. 10/863,862
Filed: June 7, 2004
Attorney Docket No. ARB-9015
Title: MEANS AND METHOD OF REPLACING A HEART VALVE IN A MINIMALLY INVASIVE MANNER

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

Dear Mr. Christakis:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

cc: COHEN SAKAGUCHI & ENGLISH LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,557,779	:	
Yoshifumi Tanada	:	
Issue Date: July 7, 2009	:	DECISION ON REQUEST FOR
Application No. 10/863,877	:	RECONSIDERATION OF
Filed: June 8, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.0553-0413	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT DETERMINATION, filed September 4, 2009, which is properly treated under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment for the above-identified patent be corrected from Six hundred forty-five (645) days to nine-hundred and twelve (912) 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 645 days.

The above-identified application was filed on June 8, 2004. On March 5, 2008, a request for continued examination (RCE) was filed. On July 7, 2009, the above-identified application matured into U.S. Patent No. 7,557,779 with a revised patent term adjustment of 645 days. The Office determined that the 270 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 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:

1.702(b),[2] overlap with the 674 days of Office delay,[3] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[4] accorded prior to the filing of the request for continued examination. As such, the Office allowed entry of only the period of adjustment of 674 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 29 days of applicant delay, the patent issued with a revised patent term adjustment of 645 days.

On September 4, 2009, patentee 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). Patentee avers that the correct number of days of patent term adjustment is 912 days based, in part, on 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). Specifically, patentee states that:

> Under § 1.702(b), the patent term is extended by 271 days. The Office issued the patent on July 7, 2009, which is 760 days after the 3 year time period from the day the application was filed. However, the Applicants filed a Request for Continued Examination on March 5, 2008. Under

---

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on March 5, 2008, the application was pending three years and 270 days.

[3] A non-final Office action was mailed on June 13, 2007, 14 months and 674 days after the application was filed on June 8, 2004.

[4] 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;

> § 1.702(b)(1), type B Delays do not include any time consumed by continued examination of the applicant under 35 U.S.C. 132(b). The number of days between the date Applicants filed the RCE and the issuance date of the patent is 489 days. Thus, the total amount of the Type B Delay is 271.
>
> ...
>
> Applicants thus submit that under 35 U.S.C. § 154 (b)(2)(A) and § 1.703(f), Applicants are entitled to the sum of both Type A Delays and Type B Delays (945 days) minus the actual overlap of any delays that occur on the same calendar day (4 days), and the further subtracting the Type 1.704 Reduction (29 Days) for a total patent term extension of 912 days.

Excerpt taken from Request for Reconsideration of the Patent Term Adjustment Determination, filed September 4, 2009, pgs. 3 and 4.

The Office notes that that patentee miscalculated the period of adjustment under 37 CFR 1.702(b) as 271 days. Furthermore, patentee used the inaccurate number of 271 days in calculating the requested patent term determination of 912 (674 + 271 - 29 - 4) days. Pursuant to 37 CFR 1.703(b)(1), the period of adjustment is 270 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), June 9, 2007, and ending on the day before the RCE was filed, March 4, 2008. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

The Office has considered patentee's 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)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of 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*

---

[5] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 674 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 270 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 270 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 674 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 674 days and the 270 days is neither permitted nor warranted. The Office accorded the greater period of 674 days for Office delay. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 645 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 24 2010

OFFICE OF PETITIONS

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Patent No. 7,557,779	:	DECISION ON REQUEST
Yoshifumi Tanada, et al.	:	FOR
Issue Date: July 7, 2009	:	RECONSIDERATION OF
Application No. 10/863,877	:	PATENT TERM ADJUSTMENT
Filed: June 8, 2004	:	and
Atty Docket No. 0553-0413	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twelve (912) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and ten (910) 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 June 9, 2007, and ends on March 4, 2008, the day before the RCE was filed, and is 270 (not 271) days. See 35 U.S.C. 154(b)(1)(B)(i).

It is further noted that the period of overlap between the "A" delays and the "B" delay is five days, not four days. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

Thus, the period of overlap is five days beginning June 9, 2007, and ending June 13, 2007.

Deposit account 50-1039 will be charged $200.00 for the fee required by 37 CFR 1.18(e).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of 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 **nine hundred and ten (910) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,557,779 B2

DATED : Jul. 7, 2009

INVENTOR(S) : Tanada

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 (645) days

Delete the phrase "by 645 days" and insert – by 910 days--

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJr: 09-04

Paper No: __

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

COPY MAILED

SEP 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Talmer, et al.	:	
Application No. 10/863,881	:	DECISION ON PETITION
Filed: 8 June, 2004	:	
Attorney Docket No.: INL-090	:	

This is a decision on the petition under 37 C.F.R. §1.10, filed on 10 September, 2004, and seeking for the above-identified application a filing date of 8 June, 2004, instead of the presently accorded filing date of 9 June, 2004.

The petition is **GRANTED**; the petition fee is waived and credited to Deposit Account 20-0531

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 9 JUNE, 2004;
- the petition recites that attachments/enclosures include, *inter alia*, copy of the US Postal Service (USPS) Express Mail Label (No. EV375068870US), and indicates that the "date in" is "6/8/04,"and a USPS date stamp of JUN -8 2004 does appear on the face of the label; and
- the USPS Express Mail Label No. EV375068870US is set forth atop Application Transmittal.

Accordingly the petition hereby is **granted**.

The instant file is released to OIPE to correct the filing date so as to accord a filing date of 8

June, 2004, to the instant application and to mail to Petitioner a corrected filing receipt reflecting a filing date of 8 June, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6899133
Issue Date: May 31,2005
Application No. 10863890
Filed: June 8,2004
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 12,2009 ,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 July 12,2009 .
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)
6899133	2005-05-31	10863890	2004-06-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Donald D Brunkhardt/	Date (YYYY-MM-DD)	2009-07-12
Name	Donald D Brunkhardt		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301

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JAN 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Yoshio Inoue, et al.	:	
Application No. 10/863,895	:	ON PETITION
Filed: June 7, 2004	:	
Attorney Docket No. 1097-29U	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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200 EAST LAS OLAS BOULEVARD
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FORT LAUDERDALE FL 33301

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of
Yoshio Inoue et al.
Application No. 10/863,895
Filed: June 7, 2004
Attorney Docket No. 1097-29U

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to petition filed September 23, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on June 7, 2004, executed by all joint inventors except inventor KirK Ramey. Accordingly, on August 2, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Ramey refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Richard E. Spies, legal counsel for Kirk Ramey, on behalf of Mr. Ramey. Correspondence from Mr. Spies indicates that Mr. Ramey takes issue with the inventorship and has not to date executed the oath or declaration as requested.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The fee however for a petition under 37 CFR 1.47(a) is not $130.00 as indicated in the petition. The fee set for a petition under 37 CFR 1.47(a) is $400.00. Petitioner's deposit account no. 50-2104 has been charged in the amount of 400.00 for the petition.

This matter will be referred to Technology Center 3763 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KIRK RAMEY
734 BLUE RIDGE AVENUE
BEDFORD, VA 24523-2550

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of
Yoshio Inoue et al.
Application No. 10/863,895
Filed: June 7, 2004
For: COUPLING SYSTEM FOR AN INFUSION PUMP

Dear Mr. Ramey:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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WASHINGTON DC 20007

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of
Leonard N. Bloksberg et al.
Application No. 10/863,905
Filed: June 7, 2004
Attorney Docket No: 044463-0295

: DECISION DISMISSING PETITION

This is a decision on the petition filed October 19, 2004 under 37 CFR 1.182 in response to the "Notice to File Missing Parts" mailed August 19, 2004.

The instant application was filed June 7, 2004 and a filing date was accorded. However, according to the "Notice" mailed, amongst other filing deficiencies, 147 pages of the specification appeared to have been omitted.

Petitioner asserts that a complete specification was filed upon application and that the specification was made up of 1137 pages. In support thereof, petitioner submits a "legible" postcard receipt. While the official file reveals that 147 pages were omitted, the postcard receipt, identifies the application and acknowledges, inter alia, that the specification contained 1137 pages and bears a United States Patent and Trademark Office date-stamp of June 7, 2004. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

Based on petitioners' representations it appears that a 1137 page specification was present in the Office on June 7, 2004. However, as required, copies of the complete specification have not been filed with the instant petition. Petitioner has submitted copies of pages 127 -280 which contains a "Detailed Description of the Invention, Examples 1-32, and original claims 1-147." A review of the file reveals that the specification filed June 7, 2004 is in three parts. Part 1 is 243 pages (pages 1-243) and the first page begins with "Table 19. DNA Sequences". Part 2 is 257 pages (pages 1-257) and the first page is entitled "Transcription Factors". Part 3 is 467 pages, begins with page 244 and appears to continue from the DNA Sequences. The Claims are on 23 pages, begins with page 258 and ends on page 280. Thus, the missing 147 pages are in other than the pages submitted on petition. The petition is therefore **DISMISSED** without prejudice to reconsideration

because petitioners have not supplied a copy of what appeared to have been omitted. Petitioners must supply copies of the complete specification (1137 pages) with a renewed petition.

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. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing without the 147 pages of the specification.

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
Office of Petitions

Telephone inquiries regarding 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

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Leonard N. Bloksberg et al.	:
Application No. 10/863,905	: DECISION ON PETITION
Filed: June 7, 2004	:
Attorney Docket No: 044463-0295	:

This is a decision on the renewed petition filed February 14, 2005 under 37 CFR 1.182 in response to the decision mailed December 13, 2004, which dismissed the petition filed October 19, 2004, and in response to the Notice to File Missing Parts" mailed August 19, 2004.

The instant application was filed June 7, 2004 and a filing date was accorded. However, according to the "Notice" mailed, amongst other filing deficiencies, 147 pages of the specification appeared to have been omitted. A petition under 37 CFR 1.182 was filed October 19, 2004 wherein petitioner asserted that a complete specification was filed upon application and that the specification was made up of 1137 pages. In support thereof, petitioner submitted a "legible" postcard receipt bearing a United States Patent and Trademark Office date-stamp of June 7, 2004. The postcard receipt lacked any notation of non-receipt of any item listed and thus was accepted as prima facie evidence that upon filing, the application papers contained an 1137 page specification. However, the petition could not be granted because as required, copies of the complete specification were not filed with the petition.

On reconsideration petitioner now claims that the application as filed was complete, that the application transmittal and the postcard receipt incorrectly identified the number of pages for the specification to be 1137, but that in fact the total number of pages for the specification should only be 990. A review of the file reveals that the specification filed June 7, 2004 is in three parts. Part 1 is 243 pages (pages 1-243) and the first page begins with "Table 19. DNA Sequences". Part 2 is 257 pages (pages 1-257) and the first page is entitled "Transcription Factors". Part 3 is 467 pages, begins with page 244 and appears to continue from the DNA Sequences. The Claims are on 23 pages, begins with page 258 and ends on page 280. Thus,

there does not appear to be any missing pages as indicated by the petitioner.

Further, in view of the above, the petition was not necessitated by any error on the part of the Office and thus a petition fee pursuant to 37 CFR 1.17 was required upon filing of the petition. The petition fee however is $200 and since petitioners submitted $130.00 with the October 19, 2004 petition and $130.00 with the renewed petition on February 14, 2005, $60.00 will be credited back to deposit account no. 19-0741.

Thus, the petition is **GRANTED in part**, to the extent that the application as filed contained a specification that only had 990 and is acknowledged by the petitioner to be so but is **DISMISSED in part,** as the "Notice" mailed August 19, 2004, was correct in stating that 147 pages of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing with a filing date of June 7, 2004 and an indication that the specification contained consisted of 990 pages and that no pages of the specification were omitted on filing.

Telephone inquiries regarding 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

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MAR 1 8 2005
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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of Leonard N. Bloksberg et al. Application No. 10/863,905 Filed: June 7, 2004 Attorney Docket No: 044463-0295	DECISION ON PETITION

This is a decision on the renewed petition filed February 14, 2005 under 37 CFR 1.182 in response to the decision mailed December 13, 2004, which dismissed the petition filed October 19, 2004, and in response to the Notice to File Missing Parts" mailed August 19, 2004.

The instant application was filed June 7, 2004 and a filing date was accorded. However, according to the "Notice" mailed, amongst other filing deficiencies, 147 pages of the specification appeared to have been omitted. A petition under 37 CFR 1.182 was filed October 19, 2004 wherein petitioner asserted that a complete specification was filed upon application and that the specification was made up of 1137 pages. In support thereof, petitioner submitted a "legible" postcard receipt bearing a United States Patent and Trademark Office date-stamp of June 7, 2004. The postcard receipt lacked any notation of non-receipt of any item listed and thus was accepted as prima facie evidence that upon filing, the application papers contained an 1137 page specification. However, the petition could not be granted because as required, copies of the complete specification were not filed with the petition.

On reconsideration petitioner now claims that the application as filed was complete, that the application transmittal and the postcard receipt incorrectly identified the number of pages for the specification to be 1137, but that in fact the total number of pages for the specification should only be 990. A review of the file reveals that the specification filed June 7, 2004 is in three parts. Part 1 is 243 pages (pages 1-243) and the first page begins with "Table 19. DNA Sequences". Part 2 is 257 pages (pages 1-257) and the first page is entitled "Transcription Factors". Part 3 is 467 pages, begins with page 244 and appears to continue from the DNA Sequences. The Claims are on 23 pages, begins with page 258 and ends on page 280. Thus,

there does not appear to be any missing pages as indicated by the petitioner.

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Thus, the petition is **GRANTED in part**, to the extent that the application as filed contained a specification that only had 990 and is acknowledged by the petitioner to be so but is **DISMISSED in part,** as the "Notice" mailed August 19, 2004, was correct in stating that 147 pages of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing with a filing date of June 7, 2004 and an indication that the specification contained consisted of 990 pages and that no pages of the specification were omitted on filing.

Telephone inquiries regarding 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

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 04/20/2010

Applicant	: Aaron Ray Crooker	: DECISION ON REQUEST FOR
Patent Number	: 7605953	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/863,909	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1478** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 122805

Rodney C. Tullett
Christensen O'Connor Johnson Kindness PLLC.
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101

Appl No.: 10/863,927	:	
Inv: Cobb	:	**DECISION ON PETITION**
Filed: June 8, 2004	:	**UNDER** *37 CFR 1.103(a)*
For: Mixed Mode Optical Proximity Correction	:	

This is a decision on the applicant's "Petition to Suspend Prosecution" filed under 37 CFR 1.103(a) filed July 15, 2005. The applicant requests that prosecution be suspended for six months so as to complete prosecution on another related application thereby avoiding unnecessary duplication of effort and simplifying issues regarding scope of claim coverage. The applicant concludes by requesting that the prosecution on the present application be suspended until prosecution of the other application is complete.

After a careful review of the file and as the prosecution on the other application has been completed (Notice of allowance in November 2005), the petition is hereby **denied** as being moot.

The application is being forwarded to the Examining Corps for further prosecution on the merits.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

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JAMES A. GAVNEY
725 WILDWOOD LANE
PALO ALTO, CA 94303

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of :
John Mix :
Application No. 10/863,928 : ON PETITION
Filed: June 8, 2004 :
Attorney Docket No. FINIS-00300 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 12, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 19, 2006. This decision precedes the mailing of a Notice of Abandonment. On January 12, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-30-07

Paper No.: _____

TO SPE OF : **Technology Center** 2813

10/863953

SUBJECT : Request for Certificate of Correction on Patent No.: 7305620 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Paul Whitehead
SPE

2813
Art Unit

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DEC 26 2006

TECHNOLOGY CENTER 3600

Kathryn A. Marra
General Motors Corporation
Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

In re Application of Kwang-Keun Shin, et al. Application No. 10/863,956 Filed: June 9, 2004 For: REAL-TIME VEHICLE DYNAMICS ESTIMATION SYSTEM	: : : : :	DECISION ON THE PETITION UNDER 37 CFR 1.144

This is a decision on applicants' petition on the propriety of the restriction/election under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on August 29, 2006.

The petition is **DENIED**..

BACKGROUND

A thorough review of the file reveals that a restriction/election under MPEP § 806.05(e) – Process and Apparatus for its Practice - was mailed to applicants on May 30, 2006.

I. Claims 1-16, drawn to an apparatus (an estimation system), classified in class 701, subclass 1.
II. Claims 17-21, drawn to a process (for determining estimated vehicle dynamics parameters), classified in class 340, subclass 945.

On June 16, 2006 applicants elected with traverse to prosecute claims 1-16 drawn to the apparatus. Applicants argued that inventions I and II were mischaracterized by the examiner and that the restriction was improper. Applicants argue that class 340/945 is directed to an aircraft and not a vehicle and that any search conducted by the examiner of invention I and II would be the same (i.e., not burdensome). Applicants further argue the reasoning presented by the examiner was improper. Thus, the restriction/election presented by the examiner was improper.

The non-Final Office action of June 29, 2006 addressed applicants' traversal of the restriction/election and withdrew claims 17-21 as being non-elected with traverse. In replying to the traversal of the restriction/election requirement the examiner stated:

Applicant's election with traverse of Group I (claims 1-16) in the reply filed on June 16, 2006 is acknowledged. The traversal is on the ground(s) that "class 340 refers to electrical communications, and subclass 945 is directed to aircraft alarm or indication systems". This is not found persuasive because claim 17 is drawn to "a method for determining estimated vehicle dynamics parameters", thus an aircraft is also a vehicle and providing warning indicators or maintenance indicators when the aircraft is not operated properly is convention in the art. Furthermore, class 340, subclass 338-441 also relates to the "method for determining estimated vehicle dynamics parameters" as recited in claim 17.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus such as a vehicle rollover sensing apparatus. In addition, the apparatus as claimed can be used to practice another and materially different process a method for detecting the wheel alignment, tilt, imbalance, or overload of a vehicle.

The requirement is still deemed proper and is therefore made FINAL.

PETITION

Applicants' petition states the following: (1) that the Class/subclass presented by the examiner in the restriction is incorrect, (2) that the search of inventions I and II would be the same (i.e., not burdensome) and, (3) the examiner's reasons for insisting upon restriction were improper.

DISCUSSION

MPEP § 806.05(e) Process and Apparatus for Its Practice

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

MPEP § 808.02 Establishing Burden

Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held.

Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

Regarding statement (1) that the classification presented by the examiner is improper. This argument is not found to be persuasive. A review of the class definitions reveals that 340/438+ is also a relevant area wherein the invention II can be classified. Thus, separate classification is noted within the art. It is further noted that applicants argue the claim limitation "vehicle" as being only an automobile; however, the term "vehicle" encompasses more than an automobile, such as an aircraft or boat. Thus, the examiner was not in error in initially classifying the invention II in 340/945.

With regard to statement (2) MPEP§ 808.02 clearly sets forth the criteria for establishing a burden. As set forth above in the section (1) response the examiner did provide a proper separate classification. This argument is not found to be persuasive.

Regarding statement (3) MPEP § 806.05(e) requires that either: (1) the process as claimed can be practiced by another material different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process.

While the examiner did set forth reasons a review of the instant case, reveals that the process as claimed can be practiced by another material different apparatus or by hand, such as routine vehicle inspections to determine estimated vehicle dynamics.

The restriction between inventions I and II is deemed **proper** for the reasons set forth above.

It is additionally noted that applicants while stating the inventions are similar never clearly set forth that the inventions are not patentably distinct. An express admission that the claimed inventions are not patentably distinct or are obvious over each other within the meaning of 35 USC 103 would have negated the restriction requirement. See *In re Lee*, 199 USPQ 108 (Comm'r Pat 1978).

SUMMARY: The petition is **DENIED**.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith in writing.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DTH/rar: 12/22/06

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JUN 11 2007

TECHNOLOGY CENTER 3600

Kathryn A. Marra
General Motors Corporation
Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

In re Application of
Kwang-Keun Shin
Application No. 10/863,956
Filed: June 9, 2004
For: REAL-TIME VEHICLE DYNAMICS ESTIMATION SYSTEM

DECISION ON THE PETITION UNDER 37 CFR 1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed January 12, 2007 requesting the objections to the drawing by the examiner under 37 CFR 1.83(a) be withdrawn.

The petition is **GRANTED**.

BACKGROUND

37 CFR 1.83(a) states that, "conventional features disclosed in the description and claims, where a detailed illustration is not essential for a proper understanding of the invention, should be illustrated in a drawing in the form of a graphical, drawing symbol or a labeled representation... "

The examiner in the Final Office action dated stated:

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore,

- the "linear parameter estimation algorithm" and "a linear region" as recited in claim 1;
- the "understeer coefficient, a front cornering compliance and a rear cornering compliance" as recited in claims 2 and 10;
- the "recursive least squares algorithms and Lyapunov-based algorithms" as recited in claim 6;
- the "pre-defined reference model parameters" as recited in claim 9; and
- the "reference model parameters" as recited in claim 16;

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

PETITION

Applicant's petition states that the drawings are in compliance with 1.83(a) in that detailed illustration is not essential for a proper understanding of the invention and such illustration is supported in the drawing in the form of a graphical, drawing symbol or a labeled representation. Applicant cites support for the features in the drawings and specification.

DISCUSSION

Regarding the "linear parameter estimation algorithm", "a linear region", "recursive least squares algorithms and Lyapunov-based algorithms", "understeer coefficient, a front cornering compliance and a rear cornering compliance", "pre-defined reference model parameters" and "reference model parameters" support for these features can reasonably be construed from the figures and the specification. These objections are hereby withdrawn.

Accordingly, applicant's arguments are persuasive.

SUMMARY: The petition is **GRANTED**.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

JWK/snm: 6/5/07

SM

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PATENT LAW GROUP LLP
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SAN JOSE, CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Paul S. Martin et al	:	
Application No. 10/863,980	:	DECISION ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No.	:	
LUM-03-09-01 US		

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of August 2, 2006 is 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.

This application is being referred to Technology Center AU 2818 for appropriate action in the normal course of business on the reply received February 20, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Michael J. Halbert
2350 Mission College Blvd.
Suite 360
Santa Clara, CA 95054

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In re Application of	:	
Martin et al.	:	
Application No. 10/863,980	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. LUM-03-09/001139US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR, NY 10510-8001

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SUITE 2400
ONE QUEEN STREET EAST
TORONTO ON M5C3B-1 CA CANADA

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FEB 1 2 2007

OFFICE OF PETITIONS

Applicant: Cosman
Appl. No.: 10/863,998
Filing Date: June 9, 2004
Title: ELECTRICAL ISOLATION OF PCBS GASKETING USING CONTROLLED DEPTH DRILLING
Attorney Docket No.: 121-015 38898-0087
Pub. No.: US 2005/0274544 A1
Pub. Date: December 15, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on February 14, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091118

DATE : April 03, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7092207

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:

/ANDREA L WELLINGTON/
Supervisory Patent Examiner.Art Unit 2627

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Kasperchik, et al.
Application No. 10/864,016
Filed: June 9, 2004
Attorney Docket No. 200403027-1

: 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 February 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35

U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Moreover, the amendments submitted February 6, 2006 and May 15, 2006 set forth the incorrect filing date of the application to which priority is sought to be claimed wherein both amendments identity the filing date of U.S. App. No. 10/351,188 (now U.S. Pat. No. 6,976,661) as July 29, 2004. A review of Office records indicates that the correct filing date of U.S. App. No. 10/351,188 is January 24, 2003.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

The required surcharge of $1,370.00 has been charged to petitioners' deposit account as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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27 JAN 2005

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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Visit Thaveeprungsriporn et al.	:	
Application No. 10/864,073	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO WITHDRAW
Attorney Docket No. MGNC-204	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on July 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Intellectual Property Law Office**
of Joel Voelzke
24772 Saddle Peak Road
Malibu, CA 90265

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BRYAN A. SANTARELLI
GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE WA 98004-5901

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OFFICE OF PETITIONS

In re Application of	:	
Kwon et al.	:	DECISION ON PETITION
Application No. 10/864,077	:	
Filed: 06/08/2004	:	
Attorney Docket No. 1768-053-03	:	

This is a decision on the petition filed on 6 February, 2007, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 25 October, 2006, for failure to submit a proper reply to the final Office action mailed on 24 May, 2006, which set a three (3) month shortened statutory period for reply. On 26 October, 2006 (certificate of mailing date 24 October, 2006), petitioners submitted an amendment after final rejection accompanied by a two (2) month extension of time. On 27 November, 2006, an Advisory Action was mailed stating that the amendment failed to places the

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

application in condition for allowance. Notice of Abandonment was mailed on 8 December, 2006.

Petitioners have filed a Request for Continued Examination (RCE) Request along with an amendment as the submission required under 37 CFR 1.114.

The application is referred to Technology Center Art Unit 2817 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUL 20 2007

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ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of	:
Jonathan D. Dinman	:
Serial No.: 10/864,079	: PETITION DECISION
Filed: June 9, 2004	:
Attorney Docket No.: 4010.3005 US	:

This is in response to the petition under 37 CFR § 1.181, filed May 1, 2007 requesting that the after final amendment filed on March 6, 2007 be entered into the above referenced application. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a non-final Office action on July 12, 2006, setting forth a three-month shortened statutory period for reply. In this Office action, claims 1-3 and 9-11 were rejected under 35 U.S.C. 102 (b) as being anticipated by Dresios et al., as evidenced by Meskauskas et al. Claims 1-3 and 9-11 were also rejected under 35 U.S.C. 102 (b) as being anticipated by Dinman et al., as evidenced by Meskauskas et al. Claim 9 was objected to for informalities.

In response, applicant filed an amendment on October 12, 2006 arguing the merits of the Office action and amending the claims.

On December 13, 2006, the examiner mailed a final Office action again rejecting claims 1-3 and 9-11 under 35 U.S.C. 102 (b) as being anticipated by Dresios et al., as evidenced by Meskauskas et al. Claims 1-3 and 9-11 were again rejected under 35 U.S.C. 102 (b) as being anticipated by Dinman et al., as evidenced by Meskauskas et al. The objection to claim 9 was withdrawn in view of applicant's amendment.

In response, applicant filed an amendment after final on March 6, 2007 wherein the merits of the final Office action were argued, a declaration was presented, and the claims were amended.

On March 28, 2008, the examiner mailed an advisory action which stated that the amendment after final of March 6, 2007 would not be entered as the proposed amendment raised new issues.

In response thereto, applicant filed this petition on May 1, 2007 requesting that the amendment after final filed on March 6, 2007 be entered into the above referenced application.

DISCUSSION

Applicant petitions the denial of entry of the after final amendment by challenging the assertion that new issues requiring consideration or search are raised by the requested amendment. Applicant's argument has been carefully considered but it is not persuasive. Applicant's amending the claims to recite "wherein the test compound is a small molecule or polypeptide" clearly raises new issues as this specific language was not previously set forth in the claims and, thus, not considered by the examiner. As a result, a new search and consideration would be required to address this limitation.

Applicant further argues that claims 1 and 9 were amended to recite a preferred embodiment of the present invention which should have been included in the initial search and examination, and the "small molecule" and "polypeptide" test compositions have already been searched within the term "test composition", particularly since a review of the examiner's search strategy indicates that the search was not limited to any specific test materials but included all possible test compounds. Applicant's argument is not persuasive. It is pointed out the amendment would require a new rejection for at least the embodiment of a 'polypeptide' (a small molecule is anticipated by one of the rejections), and would require a new search and new consideration. Also, the term 'protein' which was searched is not commensurate in scope with a 'polypeptide' which is claimed, and clearly the search is not complete with respect to including related terms to find subject matter related to the claimed 'polypeptide'. Simply having the term 'protein' in a search list does not indicate that a complete search and consideration was done for that term in the context of the claimed invention. Also, with respect to applicant's preferred embodiment argument, in one preferred embodiment of the fifth through tenth aspects of the invention, the composition is a small molecule. In other preferred embodiments, the composition may be a protein, peptide, enzyme, antibody, nucleic acid molecule, gene, antisense molecule, or other molecule that downregulates, inhibits, or interferes with the interaction of L41 with the ribosomes. Thus, as there are many 'preferred embodiments' this argument is also not persuasive.

Applicant additionally argues that the examiner did not require applicant to elect a species of test composition for initial review and there is no procedural process offered by the MPEP that permits the examiner to make an election of species on behalf of the applicant, limit his or her search to his or her chosen species, and subsequently refuse to allow the applicant to avoid said species. This argument is not persuasive as there is no requirement that the examiner require an applicant to elect a species for initial examination.

Applicant also argues that the particular amendments were proposed and discussed with the examiner in a telephone interview prior to submission and the examiner stated that such an amendment would appear to overcome her anticipation rejection over Dresios, as Dresios does not disclose a small molecule or polypeptide test composition. This is not persuasive as there were other outstanding rejections and the statement by the examiner that the "amendment **would appear** to overcome her rejection over Dresios" is not binding.

DECISION

The petition is **DENIED**. Any new or renewed petition must be filed within TWO MONTHS of the mailing date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Christopher Low
Acting Director, Technology Center 1600

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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
STONE, et al.	:	
Application No. 10/864,085	:	DECISION ON PETITION
Filed: June 9, 2004	:	TO WITHDRAW
Attorney Docket No. **75556-305809**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 18, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William K. Weimer on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor A. Curt Stone at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: A. CURT STONE
VITRUVIAN ORTHOPAEDICS, LLC
111 BRILLIANT AVENUE, APT #2
ASPINWALL, PA 15215

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7150 E. CAMELBACK
SUITE. 325
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Craig D. Carroll	:	
Application No. 10/864,096	:	DECISION ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 9905-27	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business on the reply received

April M. Wise
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Chrit Moonen	:	
Application No. 10/864,102	:	DECISION ON PETITION
Filed: June 9, 2004	:	TO WITHDRAW
Attorney Docket No. 015280-264300US	:	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 25, 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 Customer Number 20350 has been revoked by the assignee of the patent application on November 28, 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: **KLARQUIST SPARKMAN, LLP**
121 S.W. SALMON STREET
SUITE #1600
PORTLAND OR 97204-2988

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J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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In re Application of :
Hsuan :
Application No. 10/864,116 : ON PETITION
Filed: June 8, 2004 :
Attorney Docket No. JCLA13257 :
For: SYSTEM-IN-PACKAGE (SIP) STRUCTURE AND FABRICATION THEREOF

This is a decision on the petition under 37 CFR 1.181, filed September 9, 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 January 25, 2008, which set a three (3) month period for reply. A Notice of Abandonment was mailed on August 29, 2008.

Petitioner asserts that a proper response was in fact timely received in the Office on April 11, 2008. In support, petitioner submitted a copy of the April 11, 2008 amendment that was accompanied by a transmittal page that contains a proper certificate of facsimile transmission.

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.

The transmittal page bears 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, petitioner has submitted an Auto-Reply Facsimile Transmission from the Office, showing that the Office received a 9 page document from J.C. Patents 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 January 25, 2008 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the August 29, 2008 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. 2813 for consideration of the amendment filed on certificate of mailing date April 11, 2008 and resubmitted on September 9, 2008 with the present petition.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF ERIC G. MASAMORI
444 KIT FOX COURT
WALNUT CREEK CA 94598

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Suvanprakorn et al.	:	DECISION ON PETITION
Application No. 10/864,149	:	TO WITHDRAW
Filed: June 9, 2004	:	FROM RECORD
Attorney Docket No. 112-008	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 12, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED AS MOOT.**

A review of the file record indicates that Eric G. Masamori was never properly given power of attorney in this patent application. The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable and is hereby dismissed as moot.

Further, the change of correspondence address cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the request; however, the Office will mail all future correspondence solely to the address of record.

Currently there is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Pichit Suvanprakorn
884-886 Ploenchit Road
Lumpinee, Patumwan
Bangkok, Thailand 10330

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant	: Raymond J. Cho	: DECISION ON REQUEST FOR
Patent Number	: 7650339	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,163	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WILSON, SONSINI, GOODRICH & ROSATI
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PALO ALTO, CA 94304-1050

Mail Date: 05/18/2010

Applicant : Raymond J. Cho
Patent Number : 7650339
Issue Date : 01/19/2010
Application No : 10/864,163
Filed : 06/08/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **628** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10864164	06/09/2004	Porter	3574.1000-001

CONFIRMATION NO. 7753

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

Date Mailed: May 6, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed November 10, 2004 is acknowledged.

The procedure for submitting replacement drawings by filing a petition under 37 CFR 1.182 and a petition fee has been eliminated. Mail Stop PGPUB Drawings has also been eliminated. The Office may include any replacement drawings filed in compliance with 37 CFR 1.84 and 1.121(d) in the patent application publication if the replacement drawings are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun (generally four months prior to the projected publication date.) See *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, Final Rule, 68 *Fed. Reg.* 56481, 56514-56525 (Sept. 21, 2004).

Accordingly, the replacement drawings filed with the petition under 37 CFR 1.182 may be included in the patent application publication if the drawings are in compliance with 37 CFR 1.84 and 1.121(d) and if they are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

If a petition fee or processing fee was submitted with the replacement drawings, then the fee has been refunded.

Telephone inquiries regarding this letter should be directed to the Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Kalutus King
Pre Grant Publication

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of

PORTER, James M. SR.
Application No. 10/864,164
Filed: June 09, 2004
Attorney Docket No. **3574.1000-001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 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 James Smith on behalf of all attorneys of record who are associated with customer No. 21005. All attorneys/agents associated with the Customer Number 21005 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor James Porter at the address indicated below.

There is an outstanding Office action mailed April 03, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JAMES M. PORTER, SR.**
15 BURNSHILL ROAD
HUDSON, NH 03051

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Rudy A. Rivera :
Application No. 10/864,165 :
Filed: June 9, 2004 :
Attorney Docket No. 100110432-4 :

ON PETITION

This is a decision on the petition, filed June 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 April 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2835 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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APEX JURIS, PLLC.
13194 EDGEWATER LANE NORTHEAST
SEATTLE WA 98125

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OFFICE OF PETITIONS

In re Application of	:
Takashi Ikeda	: DECISION DISMISSING
Application No. 10/864,178	: PETITION
Filed: 9 June, 2004	:
Atty Docket 040-108 CIP	:

This is a decision on the petition filed under 37 CFR 1.182 on 9 August, 2004, which is treated as a petition requesting that the above-identified application be accorded a filing date of 9 August, 2004, with Figure 12 described in the specification as a part of the original disclosure.

The petition is **dismissed**.

On 9 June, 2004, the application was filed. On 30 July, 2004, a Notice of Omitted Item(s) in a Nonprovisional Application was mailed, stating that the application had been accorded a filing date of 9 June, 2004, but that Figure 12 described in the specification appeared to have been omitted.

In response, the present petition under 37 CFR 1.182 was filed on 9 August, 2004, along with a copy of drawing Figure 12, and the $130.00 petition fee.

Paragraph II of the Notice of Omitted Item(s) states, in pertinent part:

> Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the petition fee (37 CFR 1.17(h)) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

(emphasis in original)

The petition must be dismissed because it is not accompanied by a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the omitted item. Petitioner should submit an oath or declaration as required above with any renewed petition.

Alternatively, should petitioner desire that the application be accorded the original filing date with Figure 12 as a part of the original disclosure, petitioner should submit a renewed petition under 37 CFR 1.53 accompanied by evidence (*i.e.*, an itemized postcard receipt stamped by the USPTO) that the omitted item(s) was in fact deposited in the USPTO with the application papers filed on 9 June, 2004.

Petitioner is given **TWO MONTHS** to file a reply to this decision as stated above. **THIS TIME PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).**[1] In the absence of a timely filed reply to this petition, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

This application will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioner's reply. If no response is received within TWO (2) MONTHS, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 June, 2004, using only the application papers present on filing.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

[1] 37 CFR 1.181(f)

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquires should be directed to the undersigned at 703 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Yvonne Bridget Browne, et. al.	:	
Application No. 10/864,184	:	DECISION ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. CM2754	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 16, 2007, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on October 23, 2006. A Notice of Abandonment was mailed on April 26, 2007.

As authorized, the petition fee of $1,500 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1751 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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NOV 1 9 2004

OFFICE OF PETITIONS

In re Application of
Yong Yan et al.
Application No. 10/864,204
Filed: June 8, 2004
Attorney Docket No. 200209327-1

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on October 29, 2004.

The petition is GRANTED.

The above-identified application was filed on June 8, 2004. The application names Yong Yan and Bo Shen as inventors. The declaration submitted with the application was not signed and accordingly, a Notice to File Missing Parts was mailed July 30, 2004. In response, an oath or declaration signed by joint inventor Shen, the instant petition and a request for a one month extension of time request were filed. The petition claims that joint inventor Yan refuses to sign the oath/declaration and seeks status under 37 CFR 1.47(a).

By declaration of Attorney Wendell J. Jones on behalf of the assignee, the petition shows that, the application papers were sent to Mr. Yan by email and via FEDEX to the last known address and that the non-signing inventor has failed to return an executed copy of the declaration. The proof submitted substantiates the presumption that by his actions, Mr. Yan refuses to execute the oath and declaration and to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The 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 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Also, pursuant to the authorization provided in the petition, a fee in the amount of $130.00 is due for the petition to accord status under 37 CFR 1.47 and will be charged to deposit account no. 08-2025.

The application is being forwarded to the Technology Center 2661 to be examined in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PEACOCK MYERS AND ADAMS P C
PO BOX 26927
ALBUQUERQUE, NM 87125-6927

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OFFICE OF PETITIONS

In re Application of
Jurado, French, and Alsbrook
Application No. 10/864,210
Filed: June 9, 2004
Attorney Docket No. 31719-1001-UT
For: Pull Out Pouch Packaging System

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 5, 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).

The instant petition fails to satisfy (1). Although diligent effort may have been made to locate Ms. Jurado, sufficient proof has not been submitted. Reginald Alsbrook states he attempted to contact Jurado at her last known address and through the alumni department at the niversity from which she graduated. The petition fails to state any other steps taken by Alsbrook. Mr. Alsbrook states Ms. French took steps to locate Jurado but such steps are not discussed and a statement from Ms. French has not been filed. A copy of a printout of a webpage has been supplied which lists the phone numbers for various individuals with the last name Jurado, but a statement has not been supplied stating these phone numbers were ever called. Any request for reconsideration should fully discuss the diligent effort which has been made to reach Ms. Jurado.

As a courtesy, the Office has performed an internet search and determined that Ms. Jurado may currently reside at 2949 Camino Castillo, Las Cruces, NM 88005 or 9123 S Kachina Drive, Tempe, AZ 85284-3441. Petitioner may wish to send a letter to each address to determine if the non-signing inventor may now live at the address.

As to (3), the fee for a petition under 37 CFR 1.47(a) became $200 effective November 1, 2004.[1] The $200 fee has been charged to petitioner's deposit account.

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[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).

In addition to the previously discussed requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a). An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor, unless otherwise indicated. In addition to the declaration, a page was filed entitled in part, "Added Page to Combined Declaration. . . . " The added page is a declaration signed by the attorney on behalf of Jurado. The signing inventors, rather than the attorney, must sign on behalf of the nonsigning inventor. The "Added Page" will be retained in the file as part of the petition but will not be considered part of the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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ALBUQUERQUE, NM 87125-6927

In re Application of Jurado, French, and Alsbrook Application No. 10/864,210 Filed: June 9, 2004 Attorney Docket No. 31719-1001-UT For: Pull Out Pouch Packaging System	: : : : : :	Decision Noting Joinder of Inventor and Decision Decision Dismissing Any Request for Status Under 37 CFR 1.47 As Moot

This is a decision in response to the renewed petition under 37 CFR 1.47 filed April 6, 2004.

The petition is **dismissed as moot**.

The papers filed on April 6, 2004, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is moot; this application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

The original application data sheet and the original declaration listed inventor Jurado's name as "Elena Jurado." Petitioner requests the name be changed to "Elana Jurado." The declaration submitted on April 6, 2004, signed by Ms. Jurado lists her name as Elana Jurado. The supplemental application data sheet submitted April 6, 2004, lists Mr. Jurado's name as Elana Jurado.

Per MPEP 201.03 and MPEP 605.04(b), correction of a typographical or transliteration error in the spelling of an inventor's name may be corrected simply by notifying the Office of the error. Therefore, the spelling of the inventor's name has been corrected. A corrected filing receipt is attached.

The Office of Initial Patent Examination will be informed of the instant decision so that it may complete processing of the application.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
101 WEST BROADWAY
SUITE 900
SAN DIEGO CA 92101-8285

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In re Application of	:	
Clifton Jones	:	DECISION ON APPLICATION
Application No. 10/864,212	:	FOR
Filed: June 8, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. E4337	:	

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT," filed January 17, 2007. Applicant requests that the determination of patent term adjustment be corrected from zero (0) days to at least thirty-one (31) days.

The application for patent term adjustment is **DISMISSED**.

On October 17, 2006, 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 0 days. The instant application for patent term adjustment was timely filed[1]. Applicant states no basis for the assertion that the patent term adjustment should be at least 31 days.

The patent issuing from this application is subject to a terminal disclaimer.

A review of the record confirms that the calculation of 0 days of patent term adjustment at the time of the mailing of the notice of allowance is correct. A period of adjustment of 31 days was properly entered pursuant to 37 CFR 1.702(a)(1) and

[1] PALM records indicate that the Issue Fee was received on January 17, 2006.

1.703(a)(1), for the Office taking in excess of fourteen months to mail a first Office action. However, this period was properly reduced by 88 days pursuant to 37 C.F.R. §1.704(c)(7). This section provides that a period of reduction is entered for:

> 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, an initial response to the non-final Office action mailed September 8, 2005 was received on December 1, 2005. By Notice mailed February 16, 2006, applicant was advised that there was an omission in this response. The response correcting this omission was filed on February 27, 2006. Thus, the period of reduction is 88 days counting the number of days in the period beginning on December 2, 2005, the day after the reply having an omission was filed, and ending on February 27, 2006, the date that the reply correcting the omission was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ZERO **(0)** days.

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 04-1679, as authorized. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries 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

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

COPY MAILED
AUG 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Samuel A. Ellis, et al.	:	
Application No. 10/864,219	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No.: SNTIF-002A	:	

This is a decision on the petition, filed August 7, 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 16, 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 1744 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 : August 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) : Samuel A. Ellis, et al.
Application No. : 10/864,219
Filed : June 9, 2004

The above-identified application has been assigned Patent No. 7,094,596 and an issue date of August 22, 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 August 22, 2006:

> "All reference to Patent No. 7,094,596 to SAMUEL A. ELLIS, ET AL. of CALIFORNIA for FERMENTATION FLASK FOR CULTIVATING MICROORGANISMS appearing in the Official Gazette of August 22, 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

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)
6917052	2005-07-12	10864232	2004-06-09	P11405D2

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	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

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
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www.uspto.gov

In re Patent No. 6917052
Issue Date: July 12,2005
Application No. 10864232
Filed: June 9,2004
Attorney Docket No. ITO.0538D2US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 3,2009 ,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 November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

STALLMAN & POLLOCK LLP
P.O. Box 26450
SAN FRANCISCO, CA 94126

In re Application of	:	
Allan ROSENCWAIG, et al.	:	
Application No. 10/864,233	:	NOTICE
Filed: June 9, 2004	:	
Attorney Docket No. **TWI-6550**	:	

This is in response to the paper filed December 19, 2007 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the December 19, 2007 request, status as a Small Entity has been removed.

This file is being forwarded to the Maintenance Fee Division.

/Monica A. Graves/
Petitons Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG
& BECKER, LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
David GETTMAN, et al	:	
Application No. 10/864,251	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO WITHDRAW
Attorney Docket No. 60091-0019		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, 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 attorney of record was not appointed by Customer Number 29989, as indicated.

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: THREE-B INTERNATIONAL LIMITED
SAFFREY SQUARE, SUITE 205, BANK LANE
NASSAU, BAHAMAS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
David GETTMAN., et al	:	
Application No. 10/864,251	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO WITHDRAW
Attorney Docket No. 60091-0019	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 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 Christopher J. Palermo 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 request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID GETTMAN
BUILDING A, LONG ISLAND HOUSE,
1-4 WARPLE WAY,
LONDON W3 ORG
UNITED KINGDOM

cc: THREE-B INTERNATIONAL LIMITED
SAFFREY SQUARE, SUITE 205, BANK LANE
NASSAU, BAHAMAS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/864,265	06/09/2004	Tatsuro Yamamuro	KON-1892

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

DATE MAILED: November 22, 2006

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) filed on November 15, 2006, 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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

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OFFICE OF PETITIONS

In re Application of :
Brian Keith Ingell :
Application No. 10/864,268 : ON PETITION
Filed: June 9, 2004 :
For: PNEUMATIC SHINGLE REMOVER :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2005 and resubmitted on December 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 18, 2005.

The instant 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of December 17, 2004 is accepted as having been unintentionally delayed.

Petitioner has 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 petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

This matter will be referred to Technology Center AU 3723.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: BRIAN INGELL
1030 MERRITT S.E.
GRAND RAPIDS, MI 49507

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

THOMAS G. MELLING
LEGAL SYSTEMS HOLDING COMPANY
155 108TH AVENUE N.E.
SUITE 650
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Thomas G. Melling	: DECISION ON REQUEST FOR
Patent Number	: 7617154	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1341** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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THOMAS G. MELLING
LEGAL SYSTEMS HOLDING COMPANY
155 108TH AVENUE N.E.
SUITE 650
BELLEVUE, WA 98004

Mail Date: 05/18/2010

Applicant : Thomas G. Melling
Patent Number : 7617154
Issue Date : 11/10/2009
Application No : 10/864,290
Filed : 06/09/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Wladyslaw Olesinski	: DECISION ON REQUEST FOR
Patent Number	: 7616573	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/864,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1044** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE IAP97
JAN 29 2008
PATENT & TRADEMARK OFFICE

DAS/$

SPECIAL PROCEDURES SUBMISSION

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Honchin EN

Appln. No.: 10/864,400

Confirmation No.: 8824

Filed: June 10, 2004

Docket No: Q81645

Allowed: October 15, 2007

Group Art Unit: 2841

Examiner: Tuan T. Dinh

For: ELECTROPLATING SOLUTION, METHOD FOR MANUFACTURING MULTILAYER PRINTED CIRCUIT BOARD USING THE SAME SOLUTION, AND MULTILAYER PRINTED CIRCUIT BOARD

PETITION TO WITHDRAW APPLICATION FROM ISSUANCE IN ACCORDANCE WITH 37 C.F.R. §1.313(a) and (c)(2)

MAIL STOP 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Commissioner to withdraw the above-identified application from issuance in accordance with 37 C.F.R. §1.313(a) and (c)(2). Insofar as Applicant can determine, although the Issue Fee was paid on January 14, 2008, the above-identified application has not been accorded an issue date or a patent number.

The present petition is being filed to request consideration of a request for continued examination (RCE) in compliance with 37 C.F.R. §1.114 and consideration of an Information Disclosure Statement under 37 C.F.R. §1.97 in the above-identified application.

An Information Disclosure Statement and RCE are being filed concurrently herewith.

01/30/2008 MAHMED1 00000028 10864400
02 FC:1464 130.00 OP

Pursuant to 37 C.F.R. §1.17(h), a check for the Petition fee of $130.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this petition and authorization is enclosed.

Respectfully submitted,

Joseph J. Ruch, Jr.
Registration No. 26,577

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: January 29, 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

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SEP 10 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH STREET, NW
SUITE 300
WASHINGTON, DC 20005-3960

In re application of	:	**DECISION ON PETITION**
Bruce Samuel Sedley	:	**TO MAKE SPECIAL**
Application No. 10/864,416	:	**(APPLICANT'S AGE)**
Filed: June 10, 2004	:	

For: MAGNETICALLY CODED CARD FOR CARD-OPERATED LOCKS

This is a decision on the petition submitted on November 12, 2003 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. Sedley indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 9/05/04

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILLEN WHITE ZELANO & BRANIGAN PC
ARLINGTON COURTHOUSE PLAZA 1
SUITE 1400
2200 CLARENDON BLVD
ARLINGTON VA 22201

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of Sakaki, et al. Application No. 10/864,427 Filed: June 10, 2004 Attorney Docket No. KOJIM-0423-D01	DECISION GRANTING PETITION

This is a decision on the paper titled "PETITION", filed August 20, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of June 10, 2004.

The application was deposited on June 10, 2004. However, on August 5, 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.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This instant application contains method claims.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the petition is **GRANTED**.

The "Notice of Incomplete Nonprovisional Application", mailed August 5, 2004, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of June 10, 2004, as requested in the petition.

Given the basis for granting this petition, the petition fee has been refunded to Deposit Account No. 13-3402.

An amendment canceling all references in the specification to the omitted drawing Figures should be filed prior to the first Office action on the merits.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 10, 2004, using the application papers received in the Office on that date and for indication in Office records to show that "0" sheets of drawings were present on filing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen Monrad
57 Duggan Avenue
Toronto, ON M4V 1Y1
CANADA

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Stephen Monrad
Application No. 10/864,484
Filing Date: June 10, 2004
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on May 5, 2005, to revive the above-identified application.

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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (2).

The Office hereby acknowledges receipt of an abstract, and a credit card authorization to charge $665 for the required petition to revive fee. However, effective December 8, 2004, the petition fee required is $750. Therefore, this application cannot be revived until the fee deficiency of $85 has been submitted.

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 Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: Attn: Office of Petitions
(703) 872-9306

Inquiries regarding this decision 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen Monrad
57 Duggan Avenue
Toronto, ON M4V 1Y1
CANADA

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JUL 0 8 2005
OFFICE OF PETITIONS

In re Application of
Stephen Monrad
Application No. 10/864,484
Filing Date: June 10, 2004
Attorney Docket No. N/A

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by facsimile transmission on June 13, 2005, to revive the above-identified application.

The Office hereby acknowledges receipt of the $85 deficiency, in order to complete the required petition fee of $750.

Since petitioner has now met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is GRANTED.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON DE 19899

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APR 2 6 2010

OFFICE OF PETITIONS

In re Application of
Kurt Manal
Application No. 10/864,491
Filed: June 10, 2004
Attorney Docket No. UOD-186US

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition filed April 21, 2010, entitled 'PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. § 1.313, UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. § 120, AND AMENDMENT TO THE SPECIFICATION".

The petition under 37 C.F.R 1.313 (c)(2) is **GRANTED**.

Petitioner is reminded of 37 CFR 1.4(c) where papers with distinct subject matters should be filed separately.

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 Febraury 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment via the Office of PCT Legal to consider the Unintentional Delayed Claim For Priority Under 35 U.S.C. §120.

/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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-18-09

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/864510 Patent No.: 7492129

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

A. Green

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: _____

/Patrick Assouad/ 2858

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael Simon and Andre J. Skalina	:	
Application No. 10/864,527	:	DECISION REFUSING
Filing Date: June 10, 2004	:	STATUS UNDER § 1.47(a)
Attorney Docket No. DB000953-001	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 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 inventors. **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 June 10, 2004, without a fully executed oath or declaration. On July 10, 2004, prior to the Office's mailing of a Notice to File Missing Parts on August 2, 2004, applicants filed the instant petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), the declaration submitted does not identify the citizenship of inventor Skalina. Pursuant to 37 CFR 1.63(a)(3), the oath or declaration must identify the citizenship of all the inventors.

On renewed petition, Rule 47 applicant must submit an oath or declaration in compliance with 37 CFR 1.63.

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 concerning this decision may be directed to the undersigned at (703) 305-0272[1].

Cliff Congo
Petitions Attorney
Office of Petitions

[1] On or about September 27, 2004, the undersigned's number will change to (571) 272-3207.

UNITED STATES 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 10112-3801

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael Simon and Andre J. Skalina	:	
Application No. 10/864,527	:	DECISION ACCORDING
Filing Date: June 10, 2004	:	STATUS UNDER § 1.47(a)
Attorney Docket No. DB000953-001	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 28, 2004.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on June 10, 2004, without a fully executed oath or declaration. On July 10, 2004, prior to the Office's mailing of a Notice to File Missing Parts on August 2, 2004, applicants filed the instant petition. However, the petition was dismissed in a decision mailed on September 14, 2004. Rule 47 applicant did not submit a declaration in compliance with 37 CFR 1.63 because the declaration lacked the citizenship of nonsigning inventor Skalina.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known 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 pre-examination processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

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

ANDRE J SKALINA
126 ROARING BROOK RD
PORTLAND ME 04103

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Michael Simon and Andre J. Skalina :
Application No. 10/864,527 :
Filed: June 10, 2004 : LETTER
Title: Method and Apparatus for Real :
Time Testing of DTV Antenna
Transmitting Systems in Time Domain
Under Full Power

Dear Mr. Skalina:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Michael P. Sandonato
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801
(212)218-2217

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BAKER & HOSTETLER LLP
WASHINGTON SQUARE SUITE 1100
1050 CONNECTICUT AVE NW
WASHINGTON DC 20036-5304

In re Application of	:	
Skalina, et al.	:	
Application No. 10/864,527	:	ON PETITION
Filed: June 10, 2004	:	
Attorney Docket No. 87326.3086	:	

This is in response to the "PETITION TO CHANGE THE ORDER OF INVENTOR NAMES PURSUANT TO 37 C.F.R. 1.182", filed August 13, 2009.

The petition is **GRANTED**.

Office records have been changed to reflect that inventor Skalina is the first named inventor, while inventor Simon is the second named inventor.

The application is being forwarded to Group Art Unit 2622.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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
10/864,527	06/10/2004	2622	2204	87326.3086	20	3

CONFIRMATION NO. 7116

CORRECTED FILING RECEIPT

30734
BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

OC000000038646622

Date Mailed: 11/06/2009

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)

Andre Skalina, Portland, ME;
Michael J. Simon, Frederick, MD;

Power of Attorney: The patent practitioners associated with Customer Number 30734

Domestic Priority data as claimed by applicant

This application is a CON of 10/116,112 04/05/2002 PAT 7,015,948

Foreign Applications

If Required, Foreign Filing License Granted: 08/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/864,527**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR REAL TIME TESTING OF DTV ANTENNA TRANSMITTING SYSTEMS IN TIME DOMAIN UNDER FULL POWER

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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In re Application of	:
Kousuke Tani et al	:
Serial No.: 10/864,545	: DECISION ON PETITION
Filed: June 10, 2004	:
Attorney Docket No.: Q82087	:

This letter is in response to the Petition requesting restarting of a period for reply and a new Office action, filed March 23, 2007.

BACKGROUND

A review of the file history shows that this application is a Divisional application of SN 10/344,989, filed February 20, 2003, as the National stage application of PCT/JP01/07104. A preliminary amendment filed with this application canceled claims 1-5 and amended claims 6 and 7 to place them in independent form.

The examiner mailed a first Office action to applicants on November 3, 2006, setting a one month shortened statutory period for reply and setting forth an election of species requirement with respect to claims 6-7, although Form 326 indicates claims 1-7.

Applicants replied on December 1, 2006, by electing a species without traverse.

The examiner mailed a new Office action to applicants on February 22, 2007, setting a three month shortened statutory period for reply. Both Form 326 and the body of the Office action refer to claims 1-7 and the Office action objects to claims 1-7 as being drawn to an improper Markush group and as lacking enablement under 35 U.S.C. 112, first paragraph, and as indefinite under 35 U.S.C. 112, second paragraph. On page 7 thereof, the action indicates claims 1 and 6 are identical and claims 1 and 7 are identical. Claims 1-2 were then rejected under 35 U.S.C. 102(b) as anticipated by Aries (but claims 6 and 7 were not rejected). Claim 1-7 were also rejected for obvious double patenting over PN 6,835,752.

This petition was filed March 22, 2007 indicating that the Office action contained sufficient error that applicants are prevented from making a proper response.

DISCUSSION

Although applicants could have pointed out the examiner's error on Form 326 from the first Office action, the body of the Office action appears to address only the remaining claims 6 and 7, and it appeared to be a typographical error only. In the next Office action it would appear that the examiner considered the wrong claim set in preparing the action as evidenced by rejections of canceled claims and comparison of pending claims to canceled claims as if they were still pending. While the action contains some substance, it is not clear that it applies to the currently pending claims only or was directed to previously unamended claims prior to their cancellation. In view of the confusion a new Office action is justified.

DECISION

The renewed petition is **GRANTED.**. The Office action mailed February 22, 2007, is withdrawn.

The application will be forwarded to the examiner for preparation of a new Office action clearly addressing only the pending claims.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

John LeGuyader
Director, Technology Center 1600