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AUG 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

In re Application of: Kakihara
Application No. 10/864,548
Filed: 10 June 2004

For: DISC ARRAY DEVICE AND DIAGNOSTIC CONTROL METHOD THEREOF

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

This is a decision on the petition filed 20 June 2005 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

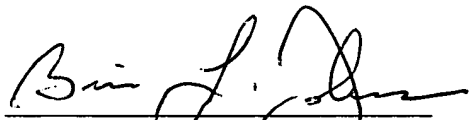
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed 20 June 2005 fails to meet requirement (d) of the criteria necessary to make Special the instant Application. As set forth in section (d) supra, the Applicant must submit a copy of each reference, if not already of record, in order to ensure completeness and consideration of the prior art. Responsive to this requirement, the petition properly identified a number of references with relevancy, which included, inter alia, a paper entitled "dual Controller Configurations" by Mylex. This paper, however, was not found with the petition nor was it previously made a part of the record in a 1449--IDS. Applicant must submit a copy of the referenced paper in order to fully comply with the requirements to make Special the instant Application.

Petition to Make Special **DISMISSED**.

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

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



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

GO

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AUG 26 2005

Technology Center 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

In re Application of: Kakihara
Application No. 10/864,548
Filed: 10 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 20 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 **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.

Responsive to Applicant's petition, the Office mailed an decision on 15 August 2005, however, in the process of making that decision there was an inadvertent oversight regarding the submitted references, and upon further review of the file, the Office has determined that the petition with its supporting documentation does properly comply with the criteria set forth supra.

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

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

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

GO

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MICHAEL LOCKLAR
BAKER BOTTS, L.L.P
ONE SHELLPLAZA
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Kell et al.	:	DECISION ON PETITION
Application No. 10/864,558	:	TO WITHDRAW
Filed: June 8, 2004	:	FROM RECORD
Attorney Docket No. K000-P03219US	:	

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 1, 2005.

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

A review of the file record indicates that power of attorney was never given to the attorneys/agents assigned to Customer Number 23640. The attorneys/agents who were originally assigned to the application filed a Request for Withdrawal of Attorney on October 26, 2004. It is noted that the request indicated the new correspondence address should be the address associated with above-noted customer number. However, a Power of Attorney was never submitted assigning the attorneys/agents associated with the above-mentioned customer number. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

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

Telephone inquires concerning this decision should be directed to Paralegal Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Kell et al.	:	DECISION ON PETITION
Application No. 10/864,558	:	TO WITHDRAW
Filed: June 8, 2004	:	FROM RECORD
Attorney Docket No. K000-P03219US	:	

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 26, 2004.

The request is **APPROVED**.

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

The request was signed by Mark A. Goldstein on behalf of all attorneys of record who are associated with customer No. 33356.

All attorneys/agents associated with Customer Number 33356 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

This application is in Technology Center 2800 awaiting examination in due course.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.

David Bucci
Petitions Examiner
Office of Petitions

Cc: MICHAEL LOCKLAR
BAKER BOTTS, L.L.P.
ONE SHELLPLAZA
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090828

DATE : August 28, 2009

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 7161218

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 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: Kenneth A. Parker **Art Unit** 2815

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 07/29/2010

Applicant	: Douglas J. Botkin	: DECISION ON REQUEST FOR
Patent Number	: 7653068	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/864,583	: 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 **1550** 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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ADAMS AND REESE LLP
1221 MCKINNEY STREET, SUITE 4400
HOUSTON TX 77010

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MAR 25 2010

OFFICE OF PETITIONS

In re Application of :
Yuan-Shiang Kao et al :
Application No. 10/864,586 : DECISION ON PETITION
Filed: June 9, 2004 :
Attorney Docket No. 9021-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 August 24, 2009, 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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BRETT J. TROUT, PC
516 WALNUT
DES MOINES, IA 50309

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APR 22 2009

OFFICE OF PETITIONS

In re Application of :
Morgan Theophilus :
Application No. 10/864,588 : DECISION ON PETITION
Filed: June 8, 2004 :
Attorney Docket No. N/A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 19, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). Accordingly, the date of abandonment of this application is January 20, 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 $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3633 for further processing in accordance with this decision on petition

/Andrea M. Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

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DIW Feb-06

KAJANE MCMANUS
MCMANUS AND ASSOCIATES
1505 ASHLEY COURT
WOODSTOCK IL 60098

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Collin Budron	:	
Application No. 10/864,589	:	DECISION GRANTING PETITION
Filed: 9 June, 2004	:	
For: PAINT ACCESSORY CLEANING	:	
DEVICE AND METHOD	:	

This is a decision on the petition under 37 CFR 1.182, filed on 9 July, 2005, to change the sole named inventor's name.

The petition is **GRANTED**.

The name of the first inventor will be changed from "Khalid M. Budron" to -**Collin Budron**--.

Petitioner has presented a certified copy of a court order for name change, as well as an affidavit signed in both names. Additionally, petitioner has presented an affidavit, signed with both names, setting forth that the name change occurred as a result of the inventor's becoming a U.S. citizen.

The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioner's records.

The petition fee of $400.00 has been received.

The application is being referred to Technology Center Art Unit 1746 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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SECOND SIGHT MEDICAL PRODUCTS, INC.
Building 3
12744 San Fernando Road
Sylmar, CA 91342

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of
GREENBERG, Robert *et al*
Application No.: 10/864,590
Filing Date: June 8, 2004
Docket No.: S257-USA
For: AUTOMATIC FITTING FOR A VISUAL PROSTHESIS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on June 6, 2005. The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to file a timely reply to a Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed August 2, 2004. This Notice set a two (2) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

Petitioners have met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted a declaration in compliance with 37 CFR 1.63, the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. The surcharge fee of $65.00 has been charged to Deposit Account No. 50-0922 as authorized. 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

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DIW Jun-10

HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of
GUIDO TRIEBEL
Application No. 10/864599
Filed: June 10, 2004
Attorney Docket No. 800.0222.U1(US)

DECISION ON PETITION

This is a decision on the petition filed on May 7, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is GRANTED.

The application became abandoned on November 5, 2009, for failure to timely submit a timely reply to the final Office action mailed on August 4, 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. On March 5, 2010, a Notice of Abandonment was mailed.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner must notify the Office if this is not a correct interpretation.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $810 continued examination fee; (2) the petition fee of $1620; and the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 4, 2009, is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2617 for appropriate action on the concurrently filed Request for Continued Examination.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 04/20/2010

Applicant	: Thomas Weise	: DECISION ON REQUEST FOR
Patent Number	: 7631255	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,603	: 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 **709** 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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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 05/17/2010

Applicant : Thomas Weise
Patent Number : 7631255
Issue Date : 12/08/2009
Application No: 10/864,603
Filed : 06/10/2004

: 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 **756** 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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THOMAS R. MARSH
MARSH FISCHMANN & BREYFOGLE
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3151 SOUTH VAUGHN WAY
AURORA, CO 80014

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of :
Brian Eugene Baldwin et al :
Application No. 10/864,610 : DECISION ON PETITION
Filed: June 9, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 50012-00033 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 8, 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 **DISMISSED**.

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

The instant petition includes a statement executed by Heath J. Briggs on behalf of Brian Eugene Baldwin, stating that the inventor is over 65 years of age. Heath J. Briggs is not the applicant and the petition does not include evidence of age.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to Technology Center AU 3763 for action in its regular return.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 31 2005

In re Application of :
BOGEN et al. :
Serial Number: 10/864,620 : PETITION UNDER
Filed: June 9, 2004 : M.P.E.P. 708.02
For: RANDOM ACCESS SLIDE STAINER WITH :
INDEPENDENT SLIDE HEATING REGULATION :

This is in response to the petition filed June 9, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 II of the MPEP and 37 CFR 1.102 (**fee required**).

The request for Special Status considered under Section 708.02 II is granted because the criteria under 37 CFR 1.102 have been met.

The petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

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

MAILED

DEC 14 2005

Technology Center 2100

In re Application of: ABE, et al.
Application No. 10/864,644
Filed: June 10, 2004
For: DISK ARRAY DEVICE AND DATA PROCESSING METHOD THEREOF

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

This is a response to the petition filed 11 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

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

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 30, 2006

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/864644 Patent No.: 7,103,717 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DONALD SPARKS
SUPERVISORY PATENT EXAMINER
SPE

2187
Art Unit

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JUN 22 2006

Technology Center 2100

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

In re Application of: YAMASAKI, et al.
Application No. 10/864,647
Filed: 10 June 2004
For: METHOD AND PROGRAM FOR USER AUTHENTICATION IN A NETWORK STORAGE SYSTEM

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

This is a decision on the petition filed 3 November 2005, to make special the status of the above-identified application under terms of 37 CFR §102(d) and MPEP §708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

GO

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/864,647	06/10/2004	Yasuo Yamasaki	1213.43931X00	9084

24956 7590 10/14/2008

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

EXAMINER	
KIM, JUNG W	

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
10/14/2008	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.

Commissioner for Patents
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OCT 14 2008

TECHNOLOGY CENTER 2100

Carl Brundidge
Mattingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road
Suite 370
Alexandria VA 22314

In re Application of:
Yamasaki et al.
Application No. 10/864,647
Filed: June 10, 2004
For: Method and Program for User Authentication in a Network Storage System

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on October 16, 2008, requesting that the shortened statutory period for reply set forth in the Office communication mailed on November 8, 2007 be restarted so that no extension of time fees are necessary.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Office Action mailed November 8, 2007 was never received by applicants and stated applicant's representative only discovered the Office Action recently. The petitioner supplied a copy of docket record (Exhibit A) showing that the Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office Action. Petitioner additionally provided a statement attesting to the fact that a search of the file jacket and docket record indicated that the Office Action was not received.

For the above-stated reasons, the petition is **GRANTED**.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3612. A second point of contact is QAS Kim Huynh at (571) 272-4147.

Tod Swann
Quality Assurance Specialist
Technology Center 2400

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

MAILED

FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of
GETTMAN, David et al.
Application No. 10/864,660
Filed: June 08, 2004
Attorney Docket No. **60091-0012**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 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 attorneys of record who are associated with customer No. 29989. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **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

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of
Patrick J. Sweeney
Application No. 10/864,673
Filed: June 9, 2004
Attorney Docket No. 029815-0108

ON PETITION

This is a decision on the petition filed October 4, 2006, under 37 CFR 1.10(e), to correct the filing date of a prior filed response.

Petitioner alleges that in response to a Final Office Action mailed May 1, 2006 which set a three month period for reply, an amendment was filed by Express Mail on July 21, 2006. In support, petitioner supplies a copy of Express Mail Label No. EV904367130US (the same Express Mail number found on the Amendment Transmittal) and a copy of the response purportedly filed on July 21, 2006. The "date-in" on the Express Mail Label is July 21, 2006. As well, the response bears a certificate of express mailing, pursuant to 37 CFR 1.10, dated July 21, 2006.

In view of the above, the response in the form of an amendment was timely filed on July 21, 2006, and the petition is therefore GRANTED. Since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to Technology Center 3733 for a notation in the file that an amendment was filed July 21, 2006.[1]

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] A Request for Continued Examination (RCE) and three month extension of time were filed October 31, 2006 requesting that the amendment filed July 21, 2006 be considered as the submission required under 37 CFR 1.114. A non-Final Office Action was mailed March 30, 2007 in response thereof.

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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
10/864,683	06/08/2004	2872	1154	5000-5180	14	27	6

CONFIRMATION NO. 9782

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

CORRECTED FILING RECEIPT

OC000000014015065

Date Mailed: 10/06/2004

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

Applicant(s)

Mikio Yoshida, Kariya-shi, JAPAN;
Toshihiko Tsuzuki, Kariya-shi, JAPAN;
Haruyuki Ishikawa, Kariya-shi, JAPAN;
Norihito Takeuchi, Kariya-shi, JAPAN;

Power of Attorney:

HAROLD HAIDT–17509
ALFRED L. HAFFNER JR.–18919
John Vassil–19098
JOHN ANDREW DIAZ–19550
David Pfeffer–19825
ALFRED P. EWERT–19887
Robert Paulson–21046
Harry Marcus–22390
Stephen Smith–22615
Kurt Richter–24052

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-164309 06/09/2003
JAPAN 2003-166721 06/11/2003
JAPAN 2003-205771 08/04/2003

If Required, Foreign Filing License Granted: 08/05/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/864,683

Projected Publication Date: 01/13/2005

Non-Publication Request: No

Early Publication Request: No

Title

Optical device, area light apparatus and display

Preliminary Class

359

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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Jimmie R. Oaks
DEERE & COMPANY
Patent Department
One John Deere Place
Moline, IL 61265-8098

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of :
Peter Schafer :
Application No. 10/864,686 : ON PETITION
Filed: June 9, 2004 :
Attorney Docket No. 09265-US :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 20, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed July 26, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of W. Michael Dixon 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.

As authorized, $790 for the Request for Continued Examination (RCE) under 37 CFR 1.114 filed on February 20, 2007, 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 RCE with the $790 filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3671, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

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OFFICE OF PETITIONS

In re Application of
Waldron et al.
Application No. 10/864,691
Filed: June 9, 2004
Attorney Docket No. 427953

DECISION ON PETITION

This is a decision on the petition, filed March 24, 2006, 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 Notice of Missing Parts of August 3, 2004, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before October 3, 2004.

Petitioner states that a timely reply was mailed via Express Mail on January 26, 2005, which included the following papers: response to the Notice of Missing Parts, Revocation and Power of Attorney, four months extension of time, fee transmittal to charge the $9.00 additional claim fee, Express Mail Label, certificate of mailing and USPS track and confirm. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated January 26, 2005, which would have rendered the reply timely if received. The USPS track and confirm receipt shows that the package was accepted by the USPS on January 26, 2005. Further review shows that the response to the Notice to File Missing Parts contains the express mail label number EV413241045US.

The file record does not include the originally submitted papers. 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 Notice of Missing Parts of August 3, 2004 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on January 26, 2005.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received with petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3215

Charlema Grant
Petitions Attorney
Office of Petitions

enclosure

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
10/864,691	06/09/2004	Joan Phillips Waldron	

CONFIRMATION NO. 7665

POA ACCEPTANCE LETTER

30955
LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

OC000000028018145

Date Mailed: 02/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2006.

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.

/crgrant/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/864,691	06/09/2004	Joan Phillips Waldron	

CONFIRMATION NO. 7665

Joan Phillips Waldron
624 Republic Drive
Fort Collins, CO 80526

POWER OF ATTORNEY NOTICE

OC000000028018044

Date Mailed: 02/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2006.

- 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).

/crgrant/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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POLSINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

Mail Date: 04/20/2010

Applicant	: Joan Phillips Waldron	: DECISION ON REQUEST FOR
Patent Number	: 7584010	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,691	: 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 **281** 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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POLSINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

Mail Date: 04/20/2010

Applicant	: Joan Phillips Waldron	: DECISION ON REQUEST FOR
Patent Number	: 7657049	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,692	: 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 **604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY, NE
MINNEAPOLIS, MN 55432-9924

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of
David Nghiem et al.
Application No. 10/864,704
Filed: June 9, 2004
Attorney Docket No. **P-20848.00**

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed September 12, 2007 under 37 CFR 1.47(a) which is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the inclusion of the citizenship of all inventors as required by §§ 37 CFR 1.67 and 1.63[1].

The petition is **GRANTED**.

All of the joint inventors, including David Nghiem, signed the original declaration for patent filed in this application, pursuant to § 1.63(d), However, in response to a requirement in the Notice of Allowability mailed June 12, 2007, joint inventor Nghiem has not executed a supplemental declaration which corrects the duty to disclose language and a reference to 37 CFR 1.56.

Petitioners assert that joint inventor Nghiem has expressly refused to sign the supplemental oath or declaration and the evidence provided is sufficient to show that the waiver of the requirement for inventor Nghiem's signature on the supplemental declaration is warranted.

Also, the petition includes the last known address of joint inventor Nghiem and a fee in the amount of $200.00 for the petition.

The supplemental declaration has been reviewed and found in compliance with §§ 1.67 and 1.63. In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventor Nghiem is appropriate.

This matter is being referred back to the Publishing Division.

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

[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 to also sign a supplemental oath or declaration or to provide all information is a waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/864,716	06/09/2004	Scott Dewey	GP-303516	7868

7590 03/25/2008

CARY W. BROOKS
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

EXAMINER	
ONEILL, KARIE AMBER	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
03/25/2008	PAPER

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

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

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st

Mailed: 3-25-08

In re Application of	:	DECISION ON
Scott Dewey	:	PETITION
Serial No. 10/864,716	:	
Filed: June 9, 2004	:	
For: FCPM FREEZE START HEATER		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION/ELECTION REQUIREMENT mailed March 30, 2007 and made final in the office action mailed May 15, 2007.

On March 30, 2007, a two way restriction requirement and an election of species requirement were made by the examiner. The groupings of claims as set forth in the restriction requirement were directed to a product and process of using. The examiner required an election of species encompassed by the product claims. Applicant traversed the requirements in a response filed April 26, 2007. The examiner made the restriction requirement final in an office action mailed May 15, 2007.

On August 15, 2007, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction/election requirement.

DECISION

Sections 803, 806.05(h) and 806.04(e) of the MPEP state:

803 Restriction — When Proper

Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

806.05(h) Product and Process of Using

A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

806.04(e) Claims Limited to Species

Claims are definitions or descriptions of inventions. *Claims themselves are never species.* The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*). Alternatively, a claim may encompass two or more of the disclosed embodiments (and thus be designated *a generic or genus claim). Species always refer to*

the different embodiments of the invention. Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

In making the restriction/election requirement mailed March 30, 2007, the examiner required restriction between Group I, Claims 1-10 and 11-16, drawn to a fuel cell system, classified in class 429, subclass 26, and Group II, Claims 17-20 drawn to a method of heating a fuel cell stack during fuel cell system start-up, classified in class 429, subclass 13. The examiner took the position that the inventions are distinct because any of the two distinct inventions of Group I, as recited in Claims 1-10 and 11-16, respectively, can be used in the process of Group II. Independent claims 1 and 11 are drawn to fuel cell systems. The examiner provided no further reasoning as to why Claims 1-10 and 11-16, respectively are distinct inventions in Group I. In the election of species requirement, the examiner stated that if Group I is elected, the two species are Group I-1 readable on claims 1-10 and Group I-2 readable on claims 11-16, both groups being drawn to fuel cell systems and that there are no generic claims. The examiner again provided no further reasoning as to why the products in the two groups of claims are distinct. In the office action mailed on May 15, 2007, the Examiner merely stated that the two inventions are distinct because Group I is drawn to a fuel cell system comprising a heater circuit (product) and Group II is a method of heating the fuel cell system which is electrically coupled to a heater (process of use).

Petitioner first argues the Examiner has misclassified the method claims of Group II because the independent method claim is not a process of operating a fuel cell, but is a method for heating a fuel cell stack and therefore should be classified in class 429, subclass 26. This argument is not persuasive. Heating a fuel cell stack using a heater circuit is a process of operating the fuel cell system, and the fuel cell system includes the heater circuit and the fuel cell stack. Method claims are not classified in class 429, subclass 26 because the definition for this class/subclass is an apparatus having means to provide a temperature differential.

Petitioner next argues that the Examiner has not properly identified the inventions of Groups I and II as being distinct as a product and process of use and has not established her burden as required by MPEP 806.05(h) to provide an example of how the inventions are distinct by merely stating that the inventions of Groups I-1 and I-2 in the product claims are distinct. Petitioner's argument is persuasive. The Examiner did not give any reasoning as to why the inventions of Groups I-1 and I-2 encompassed by the product claims are distinct. The Examiner stated in the election of species requirement in the office action mailed March 30, 2007 that these inventions (Groups I-1 and I-2) were related as species. In the final restriction requirement, the Examiner showed distinctness by merely reiterating the two groups of claims drawn to the product and process of using. The Examiner in the final restriction requirement did not meet the burden of showing why the inventions are distinct as required by MPEP 806.05(h) between Product and Process of Using.

Petitioner argues with respect to the election of species requirement that independent claim 1 in Group I-1 is generic to independent claim 11 in Group I-2. Petitioner is correct that Claim 1 is broader in scope than Claim 11 (see claims filed June 9, 2004). However, the instant specification does not disclose distinct embodiments (species) of the invention. There are no distinct species disclosed in the instant application. MPEP 806.03 states:

Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Since Groups I-1 and I-2 are not drawn to two distinct species for the fuel cell apparatus, examiner's election of species requirement and restriction requirement are not proper.

MPEP 803 also states that the two criteria for a proper requirement for restriction between patentably distinct inventions are that the inventions must be independent or distinct as claimed and that there would be a serious burden on the examiner if restriction is not required. Because the Examiner has not met the first criterion for a proper restriction requirement to show distinctness between Groups I and II, Applicant's arguments that the Examiner has not established a serious burden if restriction is not required is moot.

Accordingly, the instant petition to withdraw the restriction/election requirement is **GRANTED**.

The application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement and the election of species requirement. Because Applicant also submitted an amendment in response to the office action mailed May 15, 2007, the non-final office action should also address said response.

___/JACQUELINE STONE/
Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CARY W. BROOKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/864,716	06/09/2004	Scott Dewey	GP-303516	7868

65798 7590 01/26/2009

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER	
ONEILL, KARIE AMBER	
ART UNIT	**PAPER NUMBER**
1795	

MAIL DATE	DELIVERY MODE
01/26/2009	PAPER

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

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

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wk

Mailed : 1/26/09
In re Application of
Scott Dewey
Serial No. 10/864,716
Filed: June 8, 2004
For: FCPM FREEZE START HEATER

: DECISION ON
: PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made April 8, 2008.

On April 8, 2008, the Examiner issued a Restriction Requirement restricting the inventions of Group I, claims 1-16, drawn to a fuel cell system, classified in class 429, subclass 26, and Group II, claims 17-20, drawn to a method of heating a fuel cell stack during fuel cell system start up, classified in class 429, subclass 13. The Examiner made the requirement final in the office action mailed July 23, 2008.

Applicant asserts that this second restriction requirement be withdrawn because the restriction of Groups I and II have already been considered under petition and the petition has been granted.

The first restriction requirement was between claims 1-16 and 17-20, along with a request for an election of species for Group I. The examiner failed to provide reasoning as to why the products in the two groups of claims were distinct.

The current restriction under review also required a restriction between claims 1-16 and claims 17-20. There is no election of species requirement. In this restriction, the examiner has provided reasoning as to why the inventions I and II are related as product and process of use.

DECISION

803 Restriction — When Proper

Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

806.05(h)Product and Process of Using

A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

The burden is on the examiner to provide an example, but the example need not be documented. If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

The Examiner has provided an example of how the inventions are distinct. The Examiner has demonstrated distinctiveness between Groups I and II. In making the restriction final, the examiner states that a search of the non-elected claims would require searches that are not required for the claims of Group I. The position of the examiner is reasonable. Additional searching would be required for the non-elected group.

DECISION

Accordingly, the petition to withdraw the restriction requirement is **DISMISSED**.

Jacqueline M. Stone

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

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
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BLOOMFIELD HILLS MI 48304

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PETITION DECISION

09/24/04

Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland. OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/864740 received on 09/02/04 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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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
John I. Shipp	:	
Application No. 10/864,780	:	DECISION REFUSING STATUS
Filed: 9 June, 2004	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 115.0026-00000	:	

This is in response to the petition under 37 CFR 1.47(b) filed on 7 February, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on 9 June, 2004, without an executed oath or declaration. . Accordingly, on 5 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing, a two (2) month period for reply was set.

In response, the present petition and a four (4) month extension of time were filed on 7 February, 2005. Petitioner asserts that a copy of the application was sent to the non-signing inventor, but that the non-signing inventor informed registered patent attorney Thomas H. Martin that he would not sign the declaration. In support, petitioners have provided a copy of an employment

agreement between the non-signing inventor and Surgicon, Inc., in which the non-signing inventor agrees to assign all right in inventions made during his employment therewith.

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

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

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

The oath or declaration is defective in that (a) no signature block has been provided for the signer, who has signed in the inventor's signature block and that (b) the signer, whose name is illegible, is listed as "Trustee of Surgicon, Inc." As the signer is not a corporate officer, proof of the authority of the individual who signs the declaration must be provided. Additionally, a signature block containing the printed or typed name of the individual signing on behalf of the assignee should

[1] MPEP 409.03(b).

be included on the oath or declaration, in addition to the signature block for the non-signing inventor.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
John I. Shipp	:	
Application No. 10/864,780	:	DECISION ON PETITION
Filed: 9 June, 2004	:	
Atty Docket No. 122.0006-00000	:	

This is in response to the petitions filed under 37 CFR 1.137(b)[1] and 37 CFR 1.47(b) on 14 November, 2005.

The petitions are **dismissed**.

---

[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)).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time (and fee) 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 1.47(a)."

The application became abandoned on 15 May, 2005, for failure to file a timely response to the Decision Refusing Status Under 37 CFR 1.47(b) mailed on 14 March, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

The above-identified application was filed on 9 June, 2004, without an executed oath or declaration. Accordingly, on 5 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing, a two (2) month period for reply was set. A petition under 37 CFR 1.47(b) and a four (4) month extension of time were filed on 7 February, 2005. Petitioner asserts that a copy of the application was sent to the non-signing inventor, but that the non-signing inventor informed registered patent attorney Thomas H. Martin that he would not sign the declaration. In support, petitioners have provided a copy of an employment agreement between the non-signing inventor and Surgicon, Inc., in which the non-signing inventor agrees to assign all right in inventions made during his employment therewith. The petition was dismissed on 15 May, 2005.

On 14 November, 2005, petitioners submitted a new declaration purportedly signed on behalf of the assignee by the bankruptcy trustee, Roberta Napolitano.

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

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

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

The declaration signed on behalf of Surgicon, Inc. by the bankruptcy trustee is objected to, as petitioners have not shown proof that the bankruptcy trustee has authority to sign on behalf of the Rule 1.47(b) applicant.

MPEP 409 states, in pertinent part:

409.03(b) No Inventor Available

> Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "cannot be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited pursuant to 37 CFR 1.47(b) must meet the following requirements:
>
> (A) The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or

[2] MPEP 409.03(b).

> Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

In the present application, while the bankruptcy trustee obviously has control over the disposal of the assets of Surgicon, Inc., as per the bankruptcy statutes, petitioners have not demonstrated that the trustee has the authority, as does a corporate officer, to make the declaration on behalf of and as agent for the Rule 47 applicant. As such, petitioners should provide either a declaration signed by a corporate officer or other individual authorized to sign on behalf of the company.

Since the petition under 37 CFR 1.47(a) is not grantable, petitioners have not submitted the reply required by the Notice to File Missing Parts mailed on 5 August, 2004. Therefore, action on the petition under 37 CFR 1.137(b) will be held in abeyance until after the requirements for a grantable petition under 37 CFR 1.47(a) have been met.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

five (5)-month extension request filed on 14 November, 2005, was submitted more than six (6) months after the mailing date of the decision mailed on 14 March, 2005, and therefore is unnecessary. The extension of time fee has not been charged.

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

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

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Feb-06

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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FEB 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
John I. Shipp	:	
Application No. 10/864,780	:	DECISION ON PETITION
Filed: 9 June, 2004	:	
Atty Docket No. 122.0006-00000	:	

This is in response to the "Second Request for Reconsideration of Petition Under 37 CFR 1.47(b)" filed on 6 February, 2006, which are treated as a petition filed under 37 CFR 1.137(b)[1] and 37 CFR 1.47(b).

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petitions are **GRANTED**.

The application became abandoned on 15 May, 2005, for failure to file a timely response to the Decision Refusing Status Under 37 CFR 1.47(b) mailed on 14 March, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

The above-identified application was filed on 9 June, 2004, without an executed oath or declaration. Accordingly, on 5 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing, a two (2) month period for reply was set. A petition under 37 CFR 1.47(b) and a four (4) month extension of time were filed on 7 February, 2005. Petitioner asserts that a copy of the application was sent to the non-signing inventor, but that the non-signing inventor informed registered patent attorney Thomas H. Martin that he would not sign the declaration. In support, petitioners have provided a copy of an employment agreement between the non-signing inventor and Surgicon, Inc., in which the non-signing inventor agrees to assign all right in inventions made during his employment therewith. The petition filed on 17 February, 2005, was dismissed on 14 March, 2005. The petition filed on 14 November, 2005, was dismissed on 5 December, 2005.

On 14 November, 2005, petitioners submitted a new declaration purportedly signed on behalf of the assignee by the bankruptcy trustee, Roberta Napolitano. The present renewed petition is also accompanied by a statement by Ms. Napolitano stating that she is authorized to act on behalf of assignee Surgicon, Inc., which filed for bankruptcy 31 December, 2003, in order to maintain the property of the Bankruptcy Estate. As such Ms. Napolitano will be construed as the successor in interest for purposes of this petition. Petitioners **must** inform the Office if this is an incorrect interpretation.

Petition Under 37 CFR 1.137(b)

As the petition under 37 CFR 1.47(b) is grantable, the reply required by 37 CFR 1.137(b)(1) has now been provided, and the petition to revive is granted.

Petition Under 37 CFR 1.47(b)

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically,

petitioners have shown that a copy of the application was sent to the non-signing inventor, John I. Shipp. The non-signing inventor, however, refused to sign and return the declaration during a telephone call with registered patent attorney Thomas H. Martin. In addition, petitioners have shown, via a copy of the Employee Agreement between assignee Surgicon, Inc., and the nonsigning inventor, signed by the non-signing inventor, that petitioner Surgicon, Inc. has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Roberta Napolitano, trustree in bankruptcy for assignee Surgicon, and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

The application is being forwarded to Technology Center 3731 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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John I. Shipp
1221 1st Street South, Suite 7A
Jacksonville Beach FL 32250

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of
John I. Shipp
Application No. 10/864,780
Filed: 9 June, 2004
For: LIGATION CLIP APPLIER

Dear Dr. Shipp:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 12 2005

LOUIS C. CULLMAN
PRESTON GATES & ELLIS LLP
SUITE 600
1900 MAIN STREET
IRVINE CA 92614-7319

In re Application of	:	
Chauncey B Sayre	:	
Serial No.: 10/864,788	:	PETITION TO MAKE SPECIAL
Filed: June 8, 2004	:	
Attorney Docket No.: 51314-00005	:	

This is in response to the petition filed March 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, 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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of :
Minoru Niigaki :
Application No. 10/864,797 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No.: 046124-5301 :

This is a decision on the petition, filed October 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 6, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2822 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

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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SEP 24 2008

In re Application of
West et al.
Application No. 10/864,798
Filed: June 10, 2004
Attorney Docket No. 544092001300

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 28, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on November 3, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF THE STAFF JUDGE ADVOCATE (SKS)
U.S. ARMY MED. RESEARCH & MATERIEL COMMAND
504 SCOTT STREET
ATTN: MCMR-ZA-J (MS. ELIZABETH ARWINE)
FORT DETRICK MD 21702-5012

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of :
Cassell, et al. :
Application No. 10/864,803 : DECISION DISMISSING PETITION
Filed: June 10, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 034047.037C1 WRAIR 95-10 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed December 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application 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)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(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 where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case,

the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior provisional application cannot include an incorporation by reference statement of the prior provisional application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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 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.

Anthony Knight
Supervisor
Office of Petitions

CC: Suzannah Sundby
SMITH, GAMBRELL & RUSSELL, LLP
1130 Connecticut Ave., NW, #1130
Washington, D.C. 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Cassell, et al. :
Application No. 10/864,803 : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 034047.037C1 WRAIR :
95-10 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 1, 2008

The petition is **DISMISSED**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The Notice of Abandonment mailed March 26, 2008 indicated that the application is abandoned for failure to timely file a reply to the Office action mailed September 10, 2007.

Petitioners herein argue that a reply to the Office action, including petition for extension of time, was timely filed December 10, 2007. Petitioners argue that the subject matter objected to by the September 10, 2007 Office action was deleted from the specification in the amendment submitted December 10, 2007.

Petitioners' arguments have been carefully reviewed and found to be unconvincing. A Quayle action closes prosecution on the merits, and, as such, amendment of the application is not a matter of right. *See*, MPEP 714.14 and 706.07(f)(III). Notwithstanding that the amendment was timely filed, it did not cure the deficiencies as noted in the ex Parte Quayle action. The amendment was thus not entered. MPEP 714.20(c). The period for reply continued to run from the mail date of the ex Parte Quayle action, September 10, 2007. A proper reply not having been

submitted before the end of the statutory period, March 10, 2008, this application went abandoned as of midnight March 10, 2008.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

By mail: **Mail Stop Petition**
Commissioner for Patents
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By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
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401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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DEC 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Cassell, et al.	:	
Application No. 10/864,803	:	DECISION DISMISSING PETITION
Filed: June 10, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 034047.037C1 WRAIR 95-10	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 25, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application 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)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(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 where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

More specifically, the priority claim should read – This application is a continuation of application 08/905,046, filed August 1, 1997, now U.S. Patent No. 7,094,883, issued August 22, 2006, which claims the benefit of provisional application 60/023,075, filed August 2, 1996. It should be noted that the priority claim suggested is based upon the information provided in the ADS submitted March 25, 2008 and is not an endorsement of the validity of the priority claim, but is merely provided for the purpose of assistance in drafting the claim.

The Application Data Sheet (ADS) submitted herewith fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which properly states the relationship of the prior-filed applications to this application, are required.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The statement appearing in the petition fails to satisfy the requirements of 37 CFR §1.78(a)(3). Correction upon renewed petition is required. It is suggested that petitioner track the language of the rule.

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

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By fax:
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ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Cassell, et al. :
Application No. 10/864,803 : DECISION DISMISSING PETITION
Filed: June 10, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 034047.037C1 WRAIR :
95-10 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 20, 2009, 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 AU 1645 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any questions concerning this matter 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.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/864,803	06/10/2004	1645	920	034047.037C1 WRAIR 95-10	11	1

CONFIRMATION NO. 5968

CORRECTED FILING RECEIPT

53502
OFFICE OF THE STAFF JUDGE ADVOCATE (SKS)
U.S. ARMY MED. RESEARCH & MATERIEL COMMAND
504 SCOTT STREET
ATTN: MCMR-ZA-J (MS. ELIZABETH ARWINE)
FORT DETRICK, MD 21702-5012

OC000000035063580

Date Mailed: 03/18/2009

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)

Frederick J. Cassels, Laurel, MD;
Andrew Lees, Silver Spring, MD;
Richard F. Schuman, Rockville, MD;

Power of Attorney: The patent practitioners associated with Customer Number 00441

Domestic Priority data as claimed by applicant

This application is a CON of 08/905,046 08/01/1997 PAT 7,094,883
which claims benefit of 60/023,075 08/02/1996

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/864,803**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Monoclonal antibody which agglutinates E. coli having the CS4-CFA/I family protein

Preliminary Class

530

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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DEC 0 6 2006

TECHNOLOGY CENTER 3600

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD ST.
RICHMOND, VA 23219-4074

In re application of : **DECISION ON PETITION**
Phillip Craig Graves : **TO MAKE SPECIAL FOR**
Application No. 10/864,809 : **NEW APPLICATION**
Filed: June 10, 2004 : **UNDER 37 CFR 1.102**
For: SYSTEM AND METHOD FOR DISTRIBUTING : AN IDENTIFIER REDEEMABLE FOR A : PLURALITY OF PRODUCTS :

This is a decision on the petition filed on November 13, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on November 13, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

KJD/dew: 11/28/06

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

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SEP 10 2008

OFFICE OF PETITIONS

In re Application of	:	
David Gettman, et al.	:	
Application No. 10/864,816	:	DECISION GRANTING PETITION
Filed: June 8, 2004	:	UNDER 37 CFR 1.55(a)(2)
Attorney Docket No. 60091-0017	:	

This is also a decision on the petition under 37 CFR 1.55(c) which is being treated as a 37 CFR 1.55(a)(2), filed September 5, 2008 and supplemented on September 8, 2008, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a)(2) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 323 and pay the required fee of $100. It is noted that the petitioner has filed a certificate of correction on September 8, 2008.

Any questions concerning this decision should be directed to the April Wise at (571) 272-1642. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

The petition submitted under 37 CFR 1.313(c)(2), filed September 3, 2008 and the RCE submitted on September 5, 2008, are unnecessary and will only be placed in the file. Therefore the petition under 37 CFR 1.313(c)(2) is **DISMISSED** as moot.

The patent file is being referred to the Certificate of Correction Branch for processing of the certificate of correction.

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DAVIDSON DAVIDSON & KAPPEL LLC
485 SEVENTH AVENUE 14TH FLOOR
NEW YORK NY 10018

In re Application of :
Oshlack, et al. :
Application No. 10/864,829 : DECISION ON PETITION
Filed: June 9, 2004 :
Attorney Docket No. 200.1116CON :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 3, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed March 27, 2007. A Notice of Abandonment was mailed on October 16, 2007.

Petitioner argues that he did timely file a response. In support thereof, petitioner has included a copy of the response, bearing a Certificate of Mailing under 37 CFR 1.8 dated July 27, 2007, and including a one month extension of time. A review of Office finance records reveals that the Office did in fact receive the fee for the one month extension. Accordingly, it is concluded that petitioner timely filed a response pursuant to 37 CFR 1.8.

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

The matter is being forwarded to Group Art Unit 1639 for consideration of the response filed with the instant petition on December 3, 2007 (Certificate of Mailing dated July 27, 2007).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Walker Digital
Five High Ridge Park
Stamford, CT 06905

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NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Walker et al. : DECISION ACCORDING STATUS
Application No. 10/864,834 : UNDER 37 CFR 1.47(a)
Filed: June 9, 2004 :
Attorney Docket No. 04-030 :

This is in response to the petition under 37 CFR 1.47(a), filed October 18, 2004.

The petition is granted.

Petitioner has shown that Wen Lin, the non-signing inventor, could not be located to sign the declaration for the above-identified application after diligent efforts to obtain her signature. Specifically, the statement of facts of Michael D. Brinton establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the package was returned to sender as undeliverable.

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

The application is being referred to Technology Center Art Unit 3624 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Wen Lin
239 West 10th Street
Apartment 1B
New York, NY 10014

COPY MAILED

NOV 10 2004

OFFICE OF PETITIONS

In re Application of	:	LETTER
Walker et al.	:	
Application No. 10/864,834	:	
Filed: June 9, 2004	:	
Attorney Docket No. 04-030	:	

Dear Ms. Lin:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Walker Digital
Five High Ridge Park
Stamford, CT 06905

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3/19/09

Patent No. :7430940
Ser. No. :10864871
Inventor(s) :Kondou et al.
Issued : 10/7/08
Title : Shift Lever Dvice
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MCDERMOTT WILL & EMERY LLP
600 13th Street, N.W.
Washington DC 2005-3096

HR

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JUL 20 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,430,940 :
Issue Date: October 7, 2008 :
Application No. 10/864,871 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 50195-429 :

This is a decision on the petition filed April 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The $100 certificate of correction fee paid April 3, 2009 is a duplicate to the fee paid March 12, 2009 and is refunded to petitioner's deposit account.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/864,878	06/09/2004	Jukka Vehmas	U 015237-8	6705

7590 02/19/2010

Ladas & Parry
26 West 61 Street
New York, NY 10023

EXAMINER	
LAZORCIK, JASON L	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
02/19/2010	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.

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FEB 19 2010

wk

Mailed :
In re Application of : DECISION ON
Vehmas : PETITION
Serial No. 10/864,878 :
Filed: June 9, 2004
For: Method And Apparatus For Heating Glass

This is a decision on Appellant's Petition under 37 CFR 1.181 or 41.3 to Request Reconsideration Of Notice Of Non-Compliant Appeal Brief.

A Notice of Non-Compliant Appeal Brief was mailed on September 24, 2009. The Notice of Non-Compliance states that the Appeal Brief failed to comply with one or more provisions of 37 CFR 41.37.

A review of the record indicates that Appellant's Brief followed the new rules of practice before the Board of Patent Appeals and Interferences. The new rules became effective December 10, 2008. Appellant's Brief was filed August 7, 2009.

DECISION

The petition is **GRANTED**.

The Notice of Non-Compliant Appeal Brief is rescinded

/Jacqueline M. Stone/

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

Raymond A. DiPerna
Ladas & Parry
26 West 61 Street
New York NY 10023

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Paper No.

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

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Wahlberg et al. :
Application No. 10/864,891 : ON APPLICATION FOR
Filed: June 10, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 19313-018001 US:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed March 19, 2009. Applicants request that the patent term adjustment be increased from the one forty-six (146) days reported on the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) to five hundred eighty-four (584) days. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

[1] Applicants assert this calculation on the basis that a request for continued examination (RCE) was filed in this application on August 22, 2008.

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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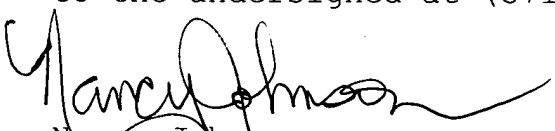
[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

COPY MAILED

FEB 05 2010

In re Application of :
Mosel et al. :
Application No. 10/864,902 : ON APPLICATION FOR
Filed: June 9, 2004 : PATENT TERM ADJUSTMENT
Atty. Docket No. 075570-0121 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed December 10, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred nineteen (419) days, not three hundred twenty-six (326) 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).

---

[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.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
David Gettman, et al.	:	
Application No. 10/864,906	:	DECISION ON PETITION
Filed: June 8, 2004	:	TO WITHDRAW
Attorney Docket No. 60091-0018	:	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 **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 Christopher J. Palermo on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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.

/AMW/
April M. Wise
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

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

O'BANION & RITCHEY LLP/ SONY ELECTRONICS, INC.
400 CAPITOL MALL
SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

Applicant	: Shirish Gadre	: DECISION ON REQUEST FOR
Patent Number	: 7606391	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/864,915	: 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 **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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Alexandria, VA 22313-1450
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Date Mailed: July 24, 2008
Patent No. 7,373,458 B2
Ser. No. :10/864916
Inventor(s) :Mark Owen Homewood
Issued :May 13, 2008
Title: CACHE MEMORY SYSTEM WITH MULTIPLE PORTS CACHE MEMORIES CAPABLE OF RECEIVING TAGGED AND UNTAGGED REQUESTS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

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

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

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

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

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

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

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

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Wolf, Grednfield & Sacks
Federal Reserve Plaza
600 Atlantic Ave.
Boston, MA 02210-2206

MD/mt

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

COPY MAILED

SEP 12 2008

OFFICE OF PETITIONS

In re Patent No. 7,373,458	:	
Issue Date: May 13, 2008	:	
Application No. 10/864,916	:	ON PETITION
Filed: June 9, 2004	:	
Atty Docket No. S1022.81111US00	:	

This is in response to the REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.323 filed August 7, 2008, which is being treated as a request under 37 CFR 3.81(b) 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**.

An initial request was filed on June 2, 2008, with payment of the certificate of correction fee. By letter mailed July 25, 2008, the Office advised petitioner that the request was properly directed to the Office of Petitions for consideration with payment of the processing fee and satisfaction of the other requirements for issuance of a Certificate of Correction to correct assignee data.

In response, the instant request was filed. Petitioner requests correction of a typographical error in the above-identified patent. (A review of the record reveals that in Item 3 of the Issue Fee Transmittal, the name of the assignee was omitted.) Petitioner requests that a Certificate of Correction be issued identifying the assignee as, "STMicroelectronics Limited, Almondsbury Bristol, United Kingdom" and submits a "Certificate of Correction" for this purpose.

Petitioner's evidence and Office records show that the assignment of the above-identified application to STMicroelectronics Limited was recorded on September 2, 2004. The submission and recording of the assignment (Reel/Frame 015751/0463) was before issuance of the patent on May 13, 2008. This was also prior to payment of the Issue Fee on April 3, 2008.

Receipt of the required $130 processing fee on August 7, 2008 and the required $100 certificate of correction fee on June 2, 2008 is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction to correct the Assignee data.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No.

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

COPY MAILED
MAR 09 2010

In re Application of	:	
Stephan et al.	:	
Application No. 10/864,925	:	DECISION ON PETITION
Filing Date: June 10, 2004	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.78(A)(6)
ANA-042CP2	:	
Title: SYSTEM FOR VERIFYING THE	:	
IDENTIFICATION OF A DEVICE	:	

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6), filed November 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in an amendment to the specification which has been submitted concurrently with this petition.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t), and;
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R.

> § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

37 C.F.R. § 1.78(a)(6)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. Since the statement contained in this petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Petitioner has included the petition fee, an amendment to the specification, and a statement that is being construed as the proper statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority pursuant to 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 C.F.R. §§ 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.

This application is being forwarded to Technology Center Art Unit 2614 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

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

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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
10/864,925	06/10/2004	2614	770	ANA-042CP2	14	3

CONFIRMATION NO. 9069

CORRECTED FILING RECEIPT

51414
GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Date Mailed: 02/22/2010

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

Applicant(s)

George Stephan, Lakeville, MA;
Frederick Loeb, Scituate, MA;
John Howley, Milton, MA;
Ludgero Leonardo, Stoughton, MA;
Stuart Patterson, Walpole, MA;

Power of Attorney: The patent practitioners associated with Customer Number 051414

Domestic Priority data as claimed by applicant

This application is a CIP of 10/464,951 06/19/2003
which claims benefit of 60/391,119 06/24/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/31/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/864,925**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System for verifying the identification of a device

Preliminary Class

381

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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OFFICE OF PETITIONS

BARLEY SNYDER, LLC
1000 WESTLAKES DRIVE, SUITE 275
BERWYN, PA 19312

In re Application of :
Masaaki Iwasaki :
Application No. 10/864,928 : DECISION GRANTING PETITION
Filed: June 10, 2004 :
Attorney Docket No. 21334-1332 :

This is a decision on the petition under 37 CFR 1.10(d) filed August 23, 2004, requesting that the above-identified application be accorded a filing date of June 10, 2004, instead of the presently accorded date of June 9, 2004.

Petitioners request the later filing date on the basis that the application was purportedly deposited in Express Mail service with the U. S. Postal Service (USPS) on June 10, 2004. In support, petitioners provided, inter alia, a copy of the Express Mail label, receipt No. EV356278059US, as well as a copy of the USPS Track & Confirm record showing acceptance of the package in question on June 10, 2004. The same Express Mail receipt number is on the original transmittal letter found in the file. Further, it is noted that while hand written "date-in" on the Express Mail mailing label is "6-9-04", the label includes a USPS receipt stamp date of June 10, 2004.

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. Any statement submitted in support of such a showing pursuant to

this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in ' 10.1(r) of this chapter.

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."

Petitioners' evidence shows that the package in question was accepted on June 10, 2004, not June 9, 2004. Since the evidence from the USPS, namely the USPS Track & Confirm record, corroborates a "date in" of June 10, 2004, the petition is GRANTED.

The application is being referred to Initial Patent Examination Division (OIPE) to correct the filing date to **June 10, 2004** and to issue a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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Commissioner for Patents
United States Patent and Trademark Office
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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Fan et al.	:	DECISION GRANTING
Application No. 10/864,935	:	PETITION
Filed: June 9, 2004	:	
Attorney Docket No. 067234-0093	:	

This is a decision on the petition under 37 CFR 1.10(c), filed November 3, 2004, requesting that the above-identified application be accorded a filing date of June 9, 2004, rather than the filing date of June 10, 2004.

Petitioner alleges that the application was deposited in Express Mail service on June 9, 2004. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV400552702US. The date-in on the Express Mail label is June 9, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

The petition is **granted**. No petition fee is necessary.

The application has undergone pre-exam processing and the application has been accorded a filing date of June 9, 2004.

This matter will be referred to Technology Center Art Unit 1634 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JJGJr: 01-05

Paper No: __

MCDERMOTT WILL & EMERY
4370 LA JOLLA VILLAGE DR.
STE. 700
SAN DIEGO, CA 92122

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Fan, et al. :
Application No. 10/864,937 : DECISION ON PETITION
Filed: 9 June, 2004 :
Attorney Docket No.: 067234-0094/7855 :

This is a decision on the petition filed via FAX on 26 October, 2004, and (styled originally as a petition under 37 C.F.R. §1.53, but considered under 37 C.F.R. §1.10, and d seeking for the above-identified application a filing date of 9 June, 2004, instead of the presently accorded filing date of 10 June, 2004.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 10 June, 2004;
- the instant petition was submitted on 28 October, 2004;
- the materials submitted by Petitioner include copies of a USPS Express Mail Label No. EV400552693US with a "date in" indicated as "6/9/04," the Application Transmittal bearing the correlating USPS Express Mail Label No. EV400552693US (and a USPS Certificate of Mailing date stamped "Jun 9 2004"), and Petitioner David A. Gay's (Reg. No. 39,200) statement of events.

Accordingly the petition hereby is **granted**.

The petition fee is waived, and it appears that none has been charged.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 9 June, 2004, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 9 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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/864,944	06/09/2004	2821	1000	030521	6	28	4

CONFIRMATION NO. 8293

CORRECTED FILING RECEIPT

OC000000014019342

23696
Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 10/06/2004

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

Applicant(s)

Bin Tian, San Diego, CA;
Judd Erlenbach, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23696**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/05/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/864,944

Projected Publication Date: 12/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Self-correcting mobile antenna control system and method

Preliminary Class

343

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

GRANTED

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

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

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

NOT GRANTED

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

SPE: T. Callahan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/06

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/864,969 Patent No.: 7075377

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

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DIW Sep-06

COLIN P. ABRAHAMS
SUITE 400
5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

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SEP 20 2006
OFFICE OF PETITIONS

In re Application of	:	
Edvin Ghazarian	:	DECISION ON PETITION
Application No. 10/864,983	:	TO WITHDRAW HOLDING OF
Filed: 10 June, 2004	:	ABANDONMENT
Atty. Docket No. 1242-101.US	:	

This is a decision on the petition, filed on 7 June, 2006, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on 4 October, 2005. A Notice of Abandonment was mailed on 1 June, 2006.

Petitioner asserts that a proper response was in fact timely filed in the form of an amendment and a three (3) month extension of time. In support of the petition, petitioner submitted a copy of a date-stamped post card receipt acknowledging receipt of the response to the Office action, a petition for extension of time under 37 CFR 1.136(a), and a check for $510.00 for the extension of time fee in the United States Patent and Trademark Office (Office) on 7 April, 2006. Additionally, petitioner has submitted a copy of the amendment and request for extension of time with the present petition. The amendment contains a Certificate of Mailing dated 4 April, 2006, signed by petitioner's registered patent attorney, Colin P. Abrahams.

Although the three (3) month extension of time fee received on 7 April, 2006 (certificate of mailing date 4 April, 2006) is located in Office financial records, petitioner's response to the non-final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which

are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Office action was received in the Office but was not matched with the application file.

A review of the papers filed with the petition reveals that the copy of the postcard, extension of time request, and response to the Office communication miscaption the application number as 10/864,98**1**. Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers which were submitted, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

The date stamped on the post card of 7 April, 2006, is after the due date for the response. However, 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.

As petitioner has provided convincing evidence that a reply to the non-final Office action mailed on 4 October, 2005, was filed with a certificate of mailing dated 4 April, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

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

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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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Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills, CA 91367

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of :

Edvin Gharzarian :
Application No. 10/864,983 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. 1242-101.US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 22, 2007.

The request is **APPROVED**.

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

The request was signed by Colin P. Abrahams on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Edvin Ghazarian**
1100 N. Central Ave.
Apt. 15
Glendale, CA 91202

cc: **Edvin Ghazarian**
416 West Pioneer Drive
Apt. 7
Glendale, CA 91203

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Paper No. None

BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK NY 10019

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Toshio Hosogai :
Application No. 10/864,998 : DECISION ON PETITION
Filed: June 10, 2004 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 0815-4005 :
Title: TWO-SIDED POCKET FOR :
REVERSIBLE GARMENT :

This is a decision on the petition filed on January 9, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on June 9, 2005. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Petitioner has failed to submit a Notice of Rescission of Nonpublication Request. Petitioner has instead included a statement with the present petition. 37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected

publication date of September 21, 2006 accompanies this decision on petition.

Technology Center 3700 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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OCT 0 4 2005

OFFICE OF PETITIONS

Applicant: Bardouillet et al.
Appl. No.: 10/865,011
Filing Date: June 10, 2004
U.S. Patent No.: 6,919,794
Issue Date: July 19, 2005
Title: CIRCUIT FOR CONTROLLING THE RANDOM CHARACTER OF A RANDOM NUMBER GENERATOR
Attorney Docket No.: S1022.81130US00
Pub. No.: US 2004/0263320 A1
Pub. Date: December 30, 2005

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on January 27, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains a material error as the Office misprinted the number "11" as "II".

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 6,919,794 on July 19, 2005, the request is deemed moot.

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

[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).

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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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DEC 22 2008

OFFICE OF PETITIONS

In re Patent No. 7,359,999	:	
Tadamitsu Sato	:	DECISION ON REQUEST
Issue Date: April 15, 2008	:	FOR
Application No. 10/865,033	:	RECONSIDERATION OF
Filed: June 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4836	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 16, 2008. Patentee requests that the patent term adjustment be increased from four hundred twenty seven (427)[1] days to five hundred fifty (550) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On April 15, 2008, the above-identified application matured into U.S. Patent No. 7,359,999, with a Patent Term Adjustment of 401 days (427 days - 26 days). The instant request for reconsideration of patent term adjustment was timely filed on Monday, June 16, 2008 within two months of the date of issuance of the patent. Patentee maintains that the patent term adjustment should be at least 427 days + 149 days - 26 days = 550 days. In essence, patentee asserts that pursuant to 37 C.F.R. § 1.703(b), a period of adjustment of 149 days should be entered for the period beginning on the 3 year date, June 10, 2007, and ending on November 6, 2007, the mailing date of the Notice of Allowance.

[1] The actual determination of patent term adjustment is 401 days (427 days of Office delay reduced by 26 days of Applicant delay).

Preliminarily, it is noted that the Notice of Allowance was not mailed on November 6, 2007. Rather, a Request for Continued Examination (RCE) was filed on November 6, 2007. There is no period under the rules for patent term adjustment that correlates with a period running from the 3-year date to the mailing date of the Notice of Allowance. Rather, as discussed below, the relevant period with respect to 37 C.F.R. §§ 1.702(b) and 1.703(b) runs from the 3-year date to the date of filing of the RCE. Patentee's argument will be considered accordingly.

Pursuant to 35 U.S.C. 154(B)(i), § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a RCE was filed on November 6, 2007. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended November 6, 2007. Accordingly, the period of adjustment under § 1.702(b) is 148 days, counting the number of days beginning on June 10, 2007, and ending on November 5, 2007.

However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C.

154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 148 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 427 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment for Office delay beyond the 427 days was entered.

In view thereof, the patent term adjustment of 401 (427 - 26) days indicated in the patent is correct.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES
DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, SW
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Thornton, et al. :
Application No. 10/865,037 : ON PETITION
Filed: 10 June, 2004 :
Attorney Docket No. S-103.714 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 4 October, 2004.

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 application was filed on 10 June, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 4 August, 2004, the Office mailed a Notice to File Missing Parts, indicating that, inter alia, a fully signed oath/declaration (with surcharge) was required in the reply;

- the 4 October, 2004, petition under 37 C.F.R. §1.47, (filed with, *inter alia*, an oath/declaration signed by named inventors Straub, Chorpening and Huckaby, but without the signature of Thomas Jimmy Thornton (Mr. Thornton), and narrative by Petitioner Mark F. LaMarre (Reg. No. 34,856), but a clear indication that the entire application was not transmitted to the non-signing inventor at his last known addresses and that he failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Notably, the petition also does not state the last known address of the non-signing inventor.

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.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

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

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

CONCLUSION

Therefore, the instant petition must be and hereby is **dismissed**.

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

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

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

---

[1] See: MPEP 409.03(b).

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: __

UNITED STATES
DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, SW
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

COPY MAILED

MAR 31 2005

OFFICE OF PETITIONS

In re Application of
Thornton, et al. :
Application No. 10/865,037 : ON PETITION
Filed: 10 June, 2004 :
Attorney Docket No. S-103.714 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 9 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 10 June, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 4 August, 2004, the Office mailed a Notice to File Missing Parts, indicating that, inter alia, a fully signed oath/declaration (with surcharge) was required in the reply;

- on 21 January, 2005, the Office dismissed the 4 October, 2004, petition under 37 C.F.R. §1.47, (filed with, *inter alia*, an oath/declaration signed by named inventors Straub, Chorpening and Huckaby, but without the signature of Thomas Jimmy Thornton (Jimmy Thornton, per the oath/declaration) (Mr. Thornton), and narrative by Petitioner Mark F.

LaMarre (Reg. No. 34,856), because of: (a) the clear indication that the entire application was not transmitted to the non-signing inventor at his last known address (and that he failed to respond positively to the request that he sign the declaration or in fact sign said declaration); and (b) the failure of the petition to set forth the last known address (*i.e.*, the most current address) of the non-signing inventor;

- the instant petition filed on 9 March, 2005, cures both of those deficiencies, and evidences that the non-signing inventor Mr. Thornton has failed to submit a signed copy of the 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

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 03-05

Paper No: __

JIMMY THORNTON
12 BUBBYS LANE
MORGANTOWN, WV 26508

COPY MAILED

MAR 31 2005

OFFICE OF PETITIONS

In re Application of
Thornton, et al. :
Application No. 10/865,037 : CORRESPONDENCE
Filed: 10 June, 2004 :
Attorney Docket No. S-103.714 :

Dear Jimmy Thornton:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 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.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
UNITED STATES
DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, SW
ATTN: GC-62 (CHI), MS 6F-067
WASHINGTON DC 20585-0162

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HOWREY LLP-HN
C/O DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-7195

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SEP 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerald G. Dicks	:	DECISION ON PETITION
Application No. 10/865,049	:	TO WITHDRAW
Filed: June 10, 2004	:	FROM RECORD
Attorney Docket No.	:	
13614.006.NPUS00/DUR		

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 27, 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**.

A review of the file record indicates that John D. Norris does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Mr. Norris not having power of attorney. See MPEP §§ 601.03 and 405. Therefore, all future communications from the Office will continue to be directed solely to the address of record until proper instructions have been received.

Currently, an Examiner's Answer to an Appeal Brief was mailed July 21, 2009.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Garold F. Fritz
4325 Lake Road
Williamson NY 14589-9603

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Rudin, et al. :
Application No. 10/865,052 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. BML2004001 : 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 15, 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).

Garold F. Fritz, the sole attorney of record, signed the request.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Neal H. Rudin
891 Harvard Street
Rochester, NY 14610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Wuqin Lin	: DECISION ON REQUEST FOR
Patent Number	: 7626917	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,064	: 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 **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 26 2005

TECHNOLOGY CENTER 3600

LESLIE P. KRAMER, ESQ.
Dorr, Carson, Sloan, Bimey & Kramer, P.C.
3010 East 6th Avenue
Denver, CO 80206

In re application of : **DECISION ON PETITION**
Pershing Roland Van Scoyk : **TO MAKE SPECIAL**
Application No. 10/865,080 : **(APPLICANT'S AGE)**
Filed: June 10, 2004 :
For: HANDGRIP AND STIRRUP SUPPORT FOR BAREBACK HORSE RIDING

This is a decision on the petition submitted on June 10, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a birth certificate for Mr. Van Scoyk 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: 04/13/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRIAN D. BELLAMY
P.O. BOX 1997
THOMASVILLE, GA 31799-1997

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MAY 0 1 2006

OFFICE OF PETITIONS

In re Application of

John Spivey

Application No. 10/865,109

Filed: June 10, 2004

Attorney Docket No. 04-160

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 7, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability mailed October 31, 2005. The notice allowed a statutory period for reply of three-months from its mailing date. No response was received within the allowable period. Accordingly, this application became abandoned on February 1, 2006. A Notice of Abandonment was mailed on March 28, 2006.

A drawing was received on April 7, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/865,112	06/10/2004	Jing C. Chang	SO-0029 US NA	9203

23906 7590 11/18/2009

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER	
SANDERS, KRIELLION ANTIONETTE	
ART UNIT	**PAPER NUMBER**
1714	

NOTIFICATION DATE	DELIVERY MODE
11/18/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Bea Koempel-Thomas
Lee & Hayes, PLLC
601 W. Riverside Avenue
Suite 1400
Spokane WA 99201

MAILED

NOV 17 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
Douceur, et al.
Application No. 10/855,122
Filed: May 26, 2004
For: Encryption systems and Methods for Identifying and Coalescing Identical Objects Encrypted with Different Keys

DECISION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision to withdraw the holding of abandonment of the above-identified application mailed on November 10, 2009.

On June 24, 2009, the Board of Appeals and Interferences rendered a decision in this application which reversed the examiner on an art rejection of claims 1-4 and affirmed the examiner on an obvious double patenting rejection of claim 5.

On October 20, 2009, a notice of abandonment was mailed based upon applicant's failure to file a response to the board decision as no claims are allowed.

Petitioner is asking for the notice of abandonment be withdrawn as claims 1-4 having been reversed are allowable and per MPEP 1214.06, the when some of the claims are allowable after a board decision the examiner has the duty to take up the application for action.

A review of the MPEP 1214.06 and the file indicates that the application should not have been abandoned and should have been taken up for further action by the examiner.

For the above stated reasons, the Notice of Abandonment mailed on October 20, 2009 is hereby withdrawn. The application file is being forwarded to an examiner to issue an appropriate office action.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400
571-272-3612

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 23, 2006

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/865118 Patent No.: 7,005,945

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE 2817 Art Unit

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: David Durham	: DECISION ON REQUEST FOR
Patent Number	: 7594124	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,144	: 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 **1164** 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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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Patent No. 7,370,418	:	
Ueda et al.	:	DECISION ON REQUEST
Issue Date: May 13, 2008	:	FOR
Application No. 10/865,151	:	RECONSIDERATION OF
Filed: June 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4859	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 11, 2008. Patentee requests that the patent term adjustment be increased from five hundred forty-nine (549) days to eight hundred eighty-seven (887) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,370,418, with a Patent Term Adjustment of 549 days. Patentee maintains that the patent term adjustment should be at least 566 days + 338 days - 17 days = 887 days. In essence, patentee asserts that pursuant to 37 C.F.R. § 1.703(b), a period of adjustment of 338 days should be entered for the period beginning on the 3 year date, June 10, 2007, and ending on May 13, 2008, the mailing date of the Notice of Allowance.

It is acknowledged that the patent issued 3 years and 338 days after the actual date of filing of the application. Any days of

delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 338 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 566 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment for Office delay beyond the 566 days was entered.

In view thereof, the patent term adjustment of 549 (566 - 17) days indicated in the patent is correct.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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AUG 18 2008

In re Application of	:	
Akikazu Maehara et al	:	
Application No. 10/865,170	:	DECISION GRANTING PETITION
Filed: June 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJR 21.207	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Eugene William McKenna	: DECISION ON REQUEST FOR
Patent Number	: 7610627	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,180	: 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 **1129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAY 16 2005

JOHN L. LOTH
P. O. BOX 4094
Morgantown, WV 26504

In re application of John L. Loth Application No. 10/865,195 Filed: June 10, 2004 For: VORTICITY CANCELLATION AT TRAILING EDGE FOR INDUCED DRAG ELIMINATION	:	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on April 29, 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. Loth 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
(571) 272-6611

SNM/pav: 05/09/05

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DIW May-08

TEMIC AUTOMOTIVE OF NORTH AMERICA, INC.
PATENTS AND LICENSES
21440 WEST LAKE COOK ROAD
7th FLOOR
DEER PARK IL 60010

In re Application of	:	
Fehr et al.	:	
Application Number: 10/865211	:	ON PETITION
Filing Date: 06/10/2004	:	
Attorney Docket Number:	:	
29248/39239	:	

This is a decision on the petition under 37 CFR 1.137(b)[1], filed on April 24, 2008.

The petition is **granted**.

This application became abandoned on November 9, 2007, for failure to timely submit a reply to the non-final Office action mailed on August 8, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on March 27, 2008.

Receipt of the amendment in response to the non-final Office action filed with the present petition is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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.[2] 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.

Receipt of the revocation and power of attorney filed on May 27, 2008, is acknowledged. All correspondence will be mailed to the new address of record.

The application is being referred to Technology Center Art Unit 3661 for further processing.

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

/DIWood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl:

Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/865,211	06/10/2004	Walton L. Fehr	29248/39239

CONFIRMATION NO. 9502

64588
CONTINENTAL AUTOMOTIVE SYSTEMS,
TEMIC AUTOMOTIVE OF NORTH AMERICA, INC.
21440 WEST LAKE COOK ROAD
7TH FLOOR
DEER PARK, IL 60010

POA ACCEPTANCE LETTER

OC000000030175107

Date Mailed: 05/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2008.

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.

/diwood/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/865,211	06/10/2004	Walton L. Fehr	29248/39239

CONFIRMATION NO. 9502

POWER OF ATTORNEY NOTICE

29978
MARSHALL, GERSTEIN & BORUN (MOTOROLA)
233 SOUTH WACKER DRIVE
SUITE 6300
CHICAGO, IL 60606-6402

Date Mailed: 05/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2008.

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

/diwood/

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

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Continental Automotives Systems, Inc.
Patents & Licenses
21440 WEST LAKE COOK ROAD
Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Walton L. Fehr	: DECISION ON REQUEST FOR
Patent Number	: 7599772	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,211	: 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 **1212** 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

HARNESS, DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of :
Toshiyuki Hosaka :
Application No. 10/865,246 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 9319S-000801 :

This is a decision on the petition, filed February 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 29, 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 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 2 8 2005

Technology Center 2100

In re Application of NAKANO et al	:	
Application No.: 10/865,264	:	DECISION ON PETITION
Filing Date: June 9, 2004	:	FOR ACCELERATED
For: METHOD FOR ALLOCATING	:	EXAMINATION UNDER
STORAGE AREA	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed September 19, 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 **DISMISSED**.

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.

With respect to requirement (E), the discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. In the present case, for each cited reference, the petition states that essentially all of the limitations of the independent claims are not taught or suggested. However, a submission that the entirety of the independent claims is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references.

In addition, applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that the references cited in the petition will be considered by the assigned examiner.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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SAN FRANCISCO, CA 94111-3834

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AUG 31 2006

TECHNOLOGY CENTER 2100

In re Application of: Nakano, et al.
Application No. 10/865,264
Filed: 09 June 2004
For: METHOD FOR ALLOCATING STORAGE AREA

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

This is a decision on the renewed petition filed 25 January 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make special the captioned application.

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.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition and indicated to have been submitted, have not been listed on an attached PTO form 1449 or PTO/SB/08 (or such listing has not reached the file). To ensure proper consideration, a listing of these references should be provided.

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

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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Viktor Brost	: DECISION ON REQUEST FOR
Patent Number	: 7665512	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,291	: 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 **460** 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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Alain Brainos	: DECISION ON REQUEST FOR
Patent Number	: 7599371	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,293	: 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 **1413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Alain Brainos	: DECISION ON REQUEST FOR
Patent Number	: 7599371	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,293	: 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 **1413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/17/2010

Applicant : Alain Brainos
Patent Number : 7599371
Issue Date : 10/06/2009
Application No: 10/865,293
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 **1502** 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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TC 3600

Beem Patent Law Firm
53 W. Jackson Blvd.
Suite 1352
Chicago, IL 60604-3787

In re application of : **DECISION ON PETITION**
Thomas Glen Harmer et al. : **TO MAKE SPECIAL**
Application No. 10/865,297 : **(INFRINGEMENT)**
Filed: June 10, 2004 :
For: RACING SULKY

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 10, 2004 to make the above-identified application special.

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

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

The petition filed June 10, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on September 30, 2004.

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

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

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

SNM/snm: 11/16/04

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OFFICE OF PETITIONS

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of :
HARMER, et al. :
Application No. 10/865,297 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. 0233-0005 : 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 August 23, 2006.

The request is **APPROVED**.

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

The request was signed by Roger J. French on behalf of all attorneys of record who are associated with Customer No. 33297. All attorneys/agents associated with the Customer No. 33297 have been withdrawn.

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

The correspondence address or record has been changed. All future communications from the Office will be directed to the first named signing inventor at the address indicated below until otherwise notified by the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Thomas G. Harmer
16W760 91st Street
Willowbrook, IL 60527-6183

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CONTINENTAL AUTOMOTIVE SYSTEMS,
TEMIC AUTOMOTIVE OF NORTH AMERICA, INC.
21440 WEST LAKE COOK ROAD
7TH FLOOR
DEER PARK IL 60010

In re Application of	:	
Fehr et al.	:	
Application No. 10/865,361	:	DECISION ON PETITION
Filed: June 10, 2004	:	
Attorney Docket No. 29248/39238	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, August 9, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on November 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment After Non-Final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3664 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070822

DATE : August 22, 2007

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction on Patent No.: 7170278

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.

emk

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:

PATRICK ASSOUAD
SUPERVISORY PATENT EXAMINER

SPE: Patrick Assouad — Art Unit 2862

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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In re Application of :
Rohret et al. :
Application No. 10/865,389 :
Filing or 371(c) Date: 06/10/2004 :
Attorney Docket Number: PATE / 21 : ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment MPEP 711.03(c)", filed August 1, 2006.

This Petition is hereby **granted**.

Applicant filed an Amendment on January 5, 2006, in response to a non-final Office action that was mailed August 5, 2005. In response to the Amendment, this office mailed a Notice of Non-Compliant Amendment and a Notice Requiring Extension of Time Fee on January 13, 2006. The Notice Requiring Extension of Time Fee informed Applicant that a three (3) month extension of time fee was required. The Notice of Non-Compliant Amendment set a one month or thirty (30) day period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment on February 14, 2006. A Notice of Abandonment was mailed July 26, 2006.

Applicant files the instant petition and avers non-receipt of the Notice. Applicant has filed the necessary statement(s) and documents that demonstrate non-receipt of the Notice by a preponderance of the evidence.

It is also noted that the Amendment was filed January 5, 2006, two (2) months after the three (3) month period for reply had expired, and therefore required a two (2) month extension of time and fee.

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

No petition fee has been charged and none is due.

The application is being referred to Technology Center Art Unit 3721 for re-mailing of the Notice of Non-Compliant Amendment.

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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DIW 10-04

DAVID KIEWIT
5901 THIRD ST SOUTH
ST PETERSBURG FL 33705

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OFFICE OF PETITIONS

In re Application of	:	
John C. Curry	:	
Application No. 10/865,392	:	DECISION GRANTING
Filed: 10 June, 2004	:	PETITION
Attorney Docket No. 99-111CIP1	:	

This is a decision in reference to the petition filed on 16 August, 2004, requesting that the above identified application be accorded a filing date of 10 June, 2004, with six (6) sheets of drawings as a part of the original disclosure.

The petition is **GRANTED**.

The application was deposited on 10 June, 2004, without drawings. On 3 August, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date the drawings were received. A two (2)-month period for reply was set.

In response, on 16 August, 2004, petitioner filed a petition accompanied by six (6) sheets of drawings. Petitioners concede the drawings were inadvertently not filed with the original application papers, but assert that the application, including six (6) sheets of drawings, is entitled to a filing date of 10 June, 2004, because the drawings were filed in a separate envelope on the same date (10 June, 2004). Petitioners have also provided, *inter alia*, a copy of a return receipt postcard itemizing the filing of "drawing" for a continuation-in-part (CIP) of Application No. 10/402,656. The application cover sheet located among the original application files also identifies this application as a CIP of Application No. 10/402,656. The postcard receipt shows an Office date stamp of 10 June, 2004.

A review of the record reveals that no sheets of drawings have been located among the application papers received on 10 June, 2004. However, the evidence is convincing that applicants filed, on 10 June, 2004, drawings in this application, albeit in a

separate envelope, which were subsequently misplaced in the Office. Further, as no drawings were received on filing, the Office may accept the six (6) sheets of drawings supplied with the present petition as the "drawing" filed on 10 June, 2004, for filing date purposes. Therefore, the application, including six (6) sheets of drawings, is entitled to a filing date of 10 June, 2004.

The "Notice" mailed on 3 August, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1012.

The application will be processed with the copy of six (6) sheets of drawings supplied on 16 August, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 10 June, 2004, using the application papers filed on that date, and the copy of six (6) sheets of drawings supplied with the present petition.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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OFFICE OF PETITIONS

In re Application of

Cynthia DeMichele

Application No. 10/865,395

Filed: June 10, 2004

Attorney Docket No. DEMI-4075

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 14, 2009, and in supplement on September 25, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $755.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 10, 2009. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 11, 2009. A Notice of Abandonment was mailed on September 29, 2009.

The issue fee and publication fee were received on September 25, 2009.

Form PTOL-85B, filed September 25, 2009, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GARDNER GROFF, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

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NOV 0 2 2005

OFFICE OF PETITIONS

Applicant: Vincent
Appl. No.: 10/865,399
Filing Date: June 10, 2004
Title: SYSTEM FOR CREATING AND EDITING MARK UP LANGUAGE FORMS AND DOCUMENTS
Attorney Docket No.: SX01.1-013
Pub. No.: US 2004/0255243 A1
Pub. Date: December 16, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 13, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of some other unrelated application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 13, 2005, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

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

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
Boyd :
Filed: June 10, 2004 : ON PETITION
Application No. 10/865,420 :
Atty. Dkt. No.: 4002-3563 :

This decision in response to the "PETITION TO ENTER OMITTED FIGURES," filed September 28, 2004.

The petition is hereby **DISMISSED**.

The application was filed June 10, 2004. The Notice of Omitted Item(s) in a Nonprovisional Application (Notice) mailed August 2, 2004 indicated that the application had been accorded a filing date but that Figures 25 and 26 appeared to have been omitted from the application papers submitted.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee) under 37 CFR 1.182.

Petitioner herein argues in pertinent part that the figures in question are part of the disclosure of U.S. App. No. 09/664,652, said disclosure purported to have been incorporated by reference upon filing of the instant application.

It is noted that the preliminary amendment to the specification for the instant application includes an incorporation by reference statement. An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is

entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Based on petitioner's representation that Figures 25 and 26 are part of the disclosure of application No. 09/664,652, the entire disclosure of said application having been specifically incorporated by reference in the present application on June 10, 2004, it appears that Figures 25 and 26 were present in the Office on June 10, 2004, albeit in the file of another application, i.e., the application referenced in the incorporation by reference statement. Therefore, the application may be accorded a filing date of June 10, 2004.

Petitioner, however, is advised, if petitioner has not already done to, to promptly submit a further preliminary amendment requesting entry of the omitted figures prior to the issuance of the first Office action on the merits to avoid delays in examination.

A newly executed oath or declaration under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application would not be required with the preliminary amendment, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1).

The required petition fee of $400.00 will not be refunded since the petition was necessary to correct an Office error.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 10, 2004 using the papers present on that day without entry of Figures 25 and 26.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Lawrence M. Boyd	: DECISION ON REQUEST FOR
Patent Number	: 7618460	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,420	: 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 **553** 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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LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Zhou, et al. :
Application No. 10/865,431 : ON PETITION
Filed: June 9, 2004 :
Attorney Docket No. IVGN 510.1 CIP :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 28, 2009.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 17, 2008. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on January 18, 2009. The Office mailed a Notice of Abandonment on February 11, 2009.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

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

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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JJGJR.: 07-07

Paper No: __

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JUL 16 2007

OFFICE OF PETITIONS

RASHIDA A. KARMALI, PH.D
13TH FLOOR
99 WALL STREET
NEW YORK NY 10005

In re Application of :
Calderon, et al. : DECISION
Application No.: 10/865,447 :
Filing Date: 10 June, 2004 :
Attorney Docket No. 119.004 :

This is a decision on the petitions filed on 22 June, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181, and resubmitted on 22 March, 2007, with a petition under 37 C.F.R. §1.137(a) to revive an application abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petitions were presented to the attorneys in the Office of Petitions only on this writing.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 27 January, 2006, with reply due under a non-extendable deadline on or before 27 April, 2006;

- the instant application went abandoned after midnight 27 April, 2006;
- the Office mailed the Notice of Abandonment on 13 June, 2006;
- on 22 June, 2006, Petitioner filed a request to withdraw the holding of abandonment alleging timely authorization by FAX of fees, but provided no evidence (e.g., USPTO FAX-back receipt confirmation) that such authorization was timely/properly submitted to and received by the Office, and on 22 March, 2007, Petitioner re-averred that petition and further alleged unavoidable delay in a petition (with fee) and evidenced at that time timely attempt to submit, however, no timely receipt by the Office;
- out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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,

Monitoring of the status of applications on Private PAIR will inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

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]

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

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

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

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

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

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

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for

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

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

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

failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

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

* * *

And the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

Petitioner appears unable to satisfy the showing requirements described above.

Allegation of Unavoidable Delay

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

Petitioner appears to have satisfied the requirements of a petition alleging unavoidable delay under 37 C.F.R. §1.137(a).

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**, however, because it appears that Petitioner has satisfied the regulations at 37 C.F.R. §1.137(a), the petition alleging unavoidable delay is **granted**.

The application is released to Publications Branch to be processed into a patent.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No.

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

MAILED

JAN 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Stephan et al.	:	
Application No. 10/865,458	:	DECISION ON PETITION
Filing Date: June 10, 2004	:	PURSUANT TO
Attorney Docket No.: ANA-042CP1	:	37 C.F.R. § 1.78(A)(6)
Title: SYSTEM FOR DETERMINING	:	
THE TRUE ELECTRICAL	:	
CHARACTERISTICS OF A DEVICE	:	

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 35 U.S.C. § 119(e)," filed on November 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment. This petition is being treated as a petition pursuant to 37 C.F.R. § 1.78(a)(6).

This petition pursuant to 37 C.F.R. § 1.78(a)(6) is **GRANTED.**

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t), and;

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

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

37 C.F.R. § 1.78(a)(6)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. Since the statement contained in this renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Petitioner has included the petition fee, an amendment to the specification, and a statement that is being construed as the proper statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority pursuant to 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 C.F.R. §§ 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the

application is entitled to the benefit of the earlier filing date.

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

It is noted in passing that the concurrently submitted Supplemental Application Data Sheet (ADS) cannot be entered, as it has neither been properly titled as a *Supplemental* ADS,[1] nor has it been executed.[2]

This application is being forwarded to Technology Center Art Unit 2857 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[3]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

1 Pursuant to MPEP § 601.05, any ADS that is submitted to "correct, modify, or augment the original application data, the ADS, even though it is the first-filed ADS, must be titled "Supplemental Application Data Sheet."
2 Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/865,458	06/10/2004	2857	1094	ANA-042CP1	20	2

CONFIRMATION NO. 9543

CORRECTED FILING RECEIPT

51414
GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Date Mailed: 01/26/2010

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

Applicant(s)

George Stephan, Lakeville, MA;
Frederick Loeb, Scituate, MA;
John Howley, Milton, MA;
Ludgero Leonardo, Stoughton, MA;
Stuart Patterson, Walpole, MA;

Power of Attorney: The patent practitioners associated with Customer Number 051414

Domestic Priority data as claimed by applicant

This application is a CIP of 10/464,951 06/19/2003
which claims benefit of 60/391,119 06/24/2002

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 10/865,458**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System for determining the true electrical characteristics of a device

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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JUL 20 2009

OFFICE OF PETITIONS

Verizon
Patent Management Group
1320 North Court House Road
9th Floor
Arlington, VA 22201-2909

In re Application of :
Mayel Espino :
Application No. 10/865,465 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. COSO2002 :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 20, 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 were obtained. Accordingly, the date of abandonment of this application is November 21, 2008. A Notice of Abandonment was mailed on March 27, 2009.

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

disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

As to item 1, the amendment filed on May 5, 2009, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of advisory action

cc: Phouphanomketh Ditthavong
918 Prince Street
Alexandria, VA 22314

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/865,465	**Applicant(s)** ESPINO, MAYEL	
	Examiner O. C. Vostal	**Art Unit** 2453	

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

THE REPLY FILED 05 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant argued there is no "resource, said resource containing markup source", as claimed in Holmes. Holmes contains no such resource containing a "markup source", wherein markup is generated based on the markup source contained in the resource and the generated markup is sent to the user agent. As explained, in an exemplary manner, at paragraphs [07] and [08] or the specification, a markup source allows for easy update or a resource. For example, where a resource is a file containing markup, text is added to the data of a document to convey information about the document, such as descriptive markup (tags), references, markup declarations, a processing instructions. Holmes contains no teaching of such a "markup source". The verb execution component, relied on in the Final Office Action for the claimed "resource", clearly does not comprise "a markup source and at least one instruction for calling the message broker to communicate the message to an application at an application server" and comprises no component for "generating mark based on the markup source contained in the resource; and send the generated markup to the user agent." The claimed "markup source" relates to something added to the data of a document to convey information about the document.
Examiner's response is since claim does not provide feature(s)/define markup source, then Holmes's processing each verb is similar to Applicant's markup source. Also, Applicant's argument presents "a markup source allows for easy update or a resource", an example and "markup source relates to something added to the data of a document to convey information about the document". Each of these are not in claim 1, and hence are new features regarding "markup source" not presented in claim.
In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a markup source allows for easy update or a resource", an example and "markup source relates to something added to the data of a document to convey information about the document") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

2. Applicant argued Holmes fails to disclose the claimed "preprocessor configured for preprocessing the resource in response to a communication from a user agent specifying the resource," and does not disclose the specific steps of the preprocessing (viz., in response to executing the at least one instruction, calling the message broker based on the communication to communicate the message to the application at the application server in a protocol not supported by the user agent; generating markup based on the markup source contained in the resource; and sending the generated markup to the user agent), recited in the instant claims. The verb execution resolving a destination address read from the client application's message in Holmes (Final Office Action-page 5) is somehow equivalent to the claimed preprocessing is untenable, as it fails to meet any of the preprocessing requirements of the instant claims.
Examiner's response is Applicant's broad claim limitation "a preprocessor (Generalized IPC Interface Request Processor 230) configured for preprocessing the resource (resolves) in response to a communication (message) from a user agent (Client Applicant's message) specifying the resource (destination address)" is satisfied by reference Holmes (fig 2, fig 3, col 6 lines 14-18 and col 7 lines 7-12) and Verb Execution 208 will validate the parameters of the verb. It also resolves destination address. It reads, from the Client Application's message, the name of the Server Application 222 for which the Client's request is intended. Generalized IPC Interface Request Processor 230 provides the formal and initial interface to the Verb Execution 208. Figure 2 shows the GENERALIZED IPC INTEFACE 212 and Figure 3 shows a processor within interface 212. More features are necessary to differentiate claimed limitation from Holmes. Appliant's statement claimed preprocessing is untenable, as it fails to meet any of the preprocessing requirements of the instant claims... claimed preprocessing as stated in claims, in light of specification, is satisifed by reference. Upon Applicant reading specification into claims then an untenable issue is possbile. Further, application specification describes a preprocessor, but has no reference number indicating location of preprocessor in figures and figures do not show preprocessor.
Applicant stated Holmes does not disclose the specific steps of the preprocessing however Applicant did not provide any explanation to support disagreement. Refer to Final Office Action for Examiner's 102 rejection of specific steps.

3. Applicant argued based on the description in the instant specification that the preprocessor preprocesses the resource in response to a communication from a user specifying the resource, the Examiner concludes that this is a descriptive of a communication interface. Examiner stated instant disclosure provides not special definition of "preprocessor" and, accordingly, a "standard definition is used" (Final Office Action-page 32). Examiner's attention is respectfully invited to paragraphs [0080] et seq. of the instant specification, where pre-processing is clearly explained. In particular, paragraph [83] explains one way to develop client data entry applications. That is, one way is "to use a server-side preprocessing language, an open source, server-side, scripting language embedded in markup language files used to create dynamic Web pages. When a user agent requests a server-side scripted file, the file is passed to a preprocessing engine, which reads the file line by line to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser."
Examiner's response is Applicant directed attention to instant specification. In Final Office Action-page 32 examiner stated "in these two figures, Registry and Message Broker are the same item. Application specification does not provide any special definition of "configured", standard definition is used." Standard definition is used for "Message Broker" . Applicant presents clear explanation of special pre-processing in instant specification. Such as "to use a server-side preprocessing language, an open source, server-side, scripting language embedded in markup language files used to create dynamic Web pages. When a user agent request a server-side scripted file, the file is passed to a processing engine, which reads the file line by line to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser." However, these important features are not in the claims.
In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "to use a server-side preprocessing language, an open source, server-side, scripting language embedded in markup language files used to create dynamic Web pages. When a user agent request a server-side scripted file, the file is passed to a processing engine, which reads the file line by line to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser.") are not recited in the rejected claim(s). Although the claims are interpreted

in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Applicant argued, contrary to the Examiner's assertion "that the instant disclosure provides no special definition of "preprocessor", the instant disclosure explains that preprocessing may include reading a scripted file line by line "to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser."

Examiner's response is "preprocessing may include reading a scripted file line by line to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser" is not in claims. Again, Applicant provided features not represented in claim 1. Claim 1 presents "a preprocessor configured for preprocessing the resource in response to a communication from a user agent specifying the resource, said preprocessing including: in response to executing the at least one instruction, calling the message broker based on the communication to communicate the message to the application at the application server in a protocol not supported by the user agent; generating markup based on the markup source contained in the resource; and sending the generated markup to the user agent" which is satisfied by 102 rejection. Refer to Office Action for details, as necessary. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "preprocessing may include reading a scripted file line by line to determine and execute the instructions scripted in the file, and returns the markup generated by the preprocessor to the browser.") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant argued it is unreasonable for the Final Office Action to conclude that the verb execution resolving a destination address read from the clients application's message in Holmes (Final Office Action- page 5) is equivalent to the claimed preprocessing, as the verb execution fails to meet any of the preprocessing requirements of the instant claims, e.g. "generating markup based on the markup source contained in the resource; and sending the generated markup to the user agent."

Examiner's response is the verb execution satisfies Applicant's markup source, as recited in claim 1. Therefore preprocessing requirements (e.g. "generating markup based on the markup source contained in the resource; and sending the generated markup to the user agent") were satisfied in 102 rejection. And, for further clarification disclosure explained here.. generating markup (formal and initial interface col 7 lines 7-16, translated to proper Messaging Product 216 col 7 lines 43-46) based on the markup source contained (determines what services are required to process the request col 7 lines 7-12) in the resource (Holmes col 7 lines 7-16 and 40-47; The Generalized IPC Interface Request Processor 230 provides the formal and initial interface to the Verb Execution 208. It receives the Generalized IPC Request 240 and determines what services are required to process the request. Generalized IPC Request 240 (which contains the Client's native request message) is translated to the proper Messaging Product 216 for transport over the Data Network 218. Services required to process the request are considered similar to generating markup based on source.); and sending (for transport col 7 lines 43-46, transport mechanisms col 1 lines 66-67) the generated markup to the user agent (communications agent col 1 lines 64-67) (Holmes fig 1a, col 1 lines 64-67 and col 7 lines 45-54; a communications agent that supports a suite of communications messaging products and network protocols. It serves as a logical layer of communications between applications and the transport mechanisms of the network. passed to the Messaging Product 216 for transport over the Data Network 218 to a distant Server 222. The message and entire process conducted by Registry is sent to a Registry Process Monitor. Fig 1a shows communications agent. Communications agent is similar to user agent.).

6. Applicant argued Holmes cannot anticipate claims 1; 2, 5, 7-12, 14, 15, 17-22, 25 and 27-30.

Examiner's response is Applicant argued Holmes cannot anticipate claims 1, 2, 5, 7-12, 14, 15, 17-22, 25 and 27-30. However, Applicant provided no explanations.

7. Applicant argued Col. 10, lines 4-6 of Dan et al. disclose the standard HTML language, but nothing about "Hypertext Preprocessor (PHP) instruction, an Active Server Pages (ASP) instructions, a Perl instruction, and a Cold Fusion instruction."

Examiner's response is claim 16 states "preprocessing instruction includes one of". Dan (col 25 lines 65-67 and col 28 lines 36-38) state A "web page" includes a file at a web site notated with a standard scripting language, such as Hypertext Markup Language (HTML). Removing embedded scripting, such as by using PHP or ColdFusion scripting tools. Transform web page(s) into server-side scripting language via standard Cold Fusion or PHP scripting techniques. Cold Fusion scripting tools is similar to Cold Fusion instruction. Claim 16's "one of" is satisfied.

/O.C. Vostal/

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Verizon
Patent Management Group
1320 North Court House Road
9th Floor
Arlington, VA 22201-2909

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of :
Mayel Espino :
Application No. 10/865,465 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. COSO2002 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The 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 20, 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 were obtained. Accordingly, the date of abandonment of this application is November 21, 2008. A Notice of Abandonment was mailed on March 27, 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 Notice of Appeal, with the required fee of $540, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

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.

The petition decision mailed July 20, 2009 dismissed the petition filed May 5, 2009 for failure to provide a proper reply to an Office action. The renewed petition includes a proper reply.

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.

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

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

This application is being referred to Technology Center AU 2453 for appropriate action by the Examiner in the normal course of business on the reply received September 18, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Phouphanomketh Dittavong
918 Prince Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THE MARBURY LAW GROUP, PLLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of :
William Helms :
Application No. 10/865,472 : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 2816-088 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2009. Accordingly, the date of abandonment of this application is January 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and 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. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the 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
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Paper No.

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CREW, LLP
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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Berge Aslanian : DECISION ON APPLICATION
Application No.10/865,492 : FOR
Filed: June 9, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No.021962-000110US:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION," filed February 28, 2007. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to one hundred sixty-five (165) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED SIXTY-SIX (166) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 30, 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 to date is 0 days. On February 28, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request correction of the PTA to 165 days. Applicants dispute the reduction of 226 days for the filing of a response correcting an omission on February 7, 2006. Applicants argue that the response filed February 7, 2006 was an

[1] The Issue Fee payment was also received on February 28, 2007.

unsigned draft and in essence, that the calculation of patent term adjustment should be based on the fully compliant response filed February 17, 2006 (without consideration of the unsigned draft filed February 7, 2006).

Applicants' arguments have been considered and found persuasive. The record supports a conclusion that the response to the non-final Office action mailed November 18, 2005 was received by facsimile transmission in the Office on February 17, 2006. However, it was not made of record. Furthermore, the response submitted on February 7, 2006 was clearly marked as a draft amendment not for entry into the record, but was made of record. Given that the February 7, 2006 amendment and not the February 17, 2006 amendment was entered, a notice of non-compliant amendment was mailed. In response to the notice of non-compliant amendment, applicants set forth that the proper response had been filed on February 17, 2006. The notice of allowance was issued without further response to the notice of non-compliant amendment. Under the circumstances of this case, it is proper to conclude that a first proper response was received on February 17, 2006, within the three-month period in compliance with 37 CFR 1.704(b). There was no omission and no submission of an amendment correcting an omission. Accordingly, the reduction of 226 days pursuant to 37 CFR 1.704(c)(8) has been removed.

Furthermore, given that the response was received on February 17, 2006, an additional period of adjustment is warranted. The Office did not take action in response until the mailing of a notice of allowance on November 30, 2006. Accordingly, pursuant to 37 CFR 1.703(a)(2), a period of adjustment of 166 days (not 165 days as asserted by applicants) is being entered for Office delay, counting the number of days from June 18, 2006 to November 30, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ONE HUNDRED SIXTY-SIX (166) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). The fee is required and will not be waived. 35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the

notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday
Date: 6/28/2007

PALM INTRANET

Time: 15:56:54

PTA Calculations for Application: 10/865492			
Application Filing Date:	06/09/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	226
Post-Issue Petitions:	0	Total PTA (days):	166
PTO Delay Adjustment:	392		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	06/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	166		
45	06/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	226		
38	11/30/2006	MAIL NOTICE OF ALLOWANCE			
37	11/30/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
36	11/27/2006	ISSUE REVISION COMPLETED			
35	11/17/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	11/28/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	11/27/2006	NOTICE OF ALLOWABILITY			
32	09/26/2006	DATE FORWARDED TO EXAMINER			
31	09/21/2006	RESPONSE AFTER NON-FINAL ACTION		226	28
30	08/21/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	07/19/2006	DATE FORWARDED TO EXAMINER			
28.1	02/07/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	02/07/2006	RESPONSE AFTER NON-FINAL ACTION			
25	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	11/18/2005	MAIL NON-FINAL REJECTION			
21	10/24/2005	NON-FINAL REJECTION			
20	08/23/2005	DATE FORWARDED TO EXAMINER			
19	08/17/2005	RESPONSE AFTER NON-FINAL ACTION			
18	05/17/2005	MAIL NON-FINAL REJECTION			
17	05/16/2005	NON-FINAL REJECTION			
16	05/11/2005	CASE DOCKETED TO EXAMINER IN GAU			

15	05/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	02/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/19/2004	APPLICATION RETURN FROM OIPE			
11	10/19/2004	APPLICATION RETURN TO OIPE			
10	10/19/2004	APPLICATION DISPATCHED FROM OIPE			
9	10/19/2004	APPLICATION IS NOW COMPLETE			
8	10/04/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	10/04/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	08/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	07/21/2004	CLEARED BY L&R (LARS)			
4	07/13/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	07/13/2004	CASE CLASSIFIED BY OIPE			
2	06/23/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/09/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Francois Brouart et al. :
Application No. 10/865,502 : DECISION REFUSING STATUS
Filed: June 10, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 964-043983 :

This is in response to the petition filed under 37 CFR 1.47(a) on January 5, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on June 10, 2004, without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed August 2, 2004 requiring inter alia, an executed oath or declaration, filing fees and a surcharge for their late filing.

In response, an oath or declaration naming Francois Brouart, Paulo Ferreira, Daniel Krupka, Lars Gunther and Torsten Leifer as joint inventors was filed with the instant petition and a request for a three month extension of time. The declaration was signed by all joint inventors except Mr. Krupka. The present petition seeks status under 37 CFR 1.47 claiming that joint inventor Krupka refuses to execute the declaration.

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

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the

declaration) was sent to the non-signing inventor.

Dr. Jens Kraft, responsible for handling Patent matters for the assignee, the Linde Group, avers that the assignment and declaration were sent to the last known address of Mr. Krupka and while the package was signed for and accepted, Mr. Krupka has not responded by returning an executed copy of the assignment and declaration. The evidence presented however is not sufficient to show that Mr. Krupka had the benefit of reviewing the application, thus the requirements for status under 37 CFR 1.47(a) have not been met.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Francois Brouart et al.
Application No. 10/865,502
Filed: June 10, 2004
Attorney Docket No. 964-043983

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) on March 21, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on June 10, 2004, without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed August 2, 2004 requiring inter alia, an executed oath or declaration, filing fees and a surcharge for their late filing. In response, an oath or declaration naming Francois Brouart, Paulo Ferreira, Daniel Krupka, Lars Gunther and Torsten Leifer as joint inventors was filed with the instant petition and a request for a three month extension of time. The declaration was signed by all joint inventors except Mr. Krupka. A petition seeking status under 37 CFR 1.47(a)[1] claiming that joint inventor Krupka refuses to execute the declaration was filed January 5, 2005 and dismissed in a decision mailed January 18, 2005, because the petition failed to show that a complete application had been forwarded to non-signing inventor Daniel Krupka.

With the instant request for reconsideration, petitioners have provided a supplemental statement made by Dr. Jens Kraft, wherein he avers that a letter purportedly sent to Mr.

[1]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.

Krupka at his last known address on September 6, 2004 included a copy of the application as well as the assignment and declaration.

The problem with the averments made by Dr. Kraft is that the letter (Exhibit B in the original petition), has not been translated into English and Dr. Kraft is without firsthand knowledge of the forwarding of the September 6, 2004 letter, with the application, assignment and declaration. Dr. Jens Kraft relies on information provided to him as to the attachments to that September 6, 2004 letter. A better source of proof that the September 6, 2004 letter was sent with a copy of the complete application would be a statement from Mr. Brouart who purportedly provided the information to Dr. Jens Kraft that the application had been sent to Mr. Krupka.

Until such time as additional proof is submitted, this application will not be accorded status under 37 CFR 1.47(a).

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Francois Brouart et al.
Application No. 10/865,502
Filed: June 10, 2004
Attorney Docket No. 0964-043983

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed January 5, 2005 and was dismissed in a decision mailed January 18, 2005. A request for reconsideration was filed March 21, 2005 and dismissed May 3, 2005.

Papers filed July 7, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed May 3, 2005, included a declaration signed by the previously non-signing joint inventor Daniel Krupka, in compliance with 37 CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed July 7, 2005 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to the Office of Initial Patent Examination for further pre-examination processing.

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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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Dershem, Patterson and Osuna
Application No. 10/865,506
Filed: June 10, 2004
Attorney Docket No. QUANT1190-7
For: Thermosetting Resin Compositions Containing Maleimide and/or Vinyl Compounds

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

This is in response to the petition filed March 4, 2005. 37 CFR 1.47(a) is only available when at least one of the named inventors has executed the application papers. Since none of the inventors are willing or can be found to sign the oath or Declaration, the petition is appropriately treated under 37 CFR 1.47(b).

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

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

(1) proof that the non-signing inventors cannot be reached or refuse to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventors;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

As to item (1), the showing is sufficient to establish refusal for each of the three inventors.

As to item (2), the 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, or Treasurer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

As to item (3), petitioner has submitted the required petition fee.

As to item (4), the last known addresses of the inventors has been submitted.

As to item (5), Rule 47 applicant has failed to show or provide proof that Henkel Corporation has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventors and the Rule 47(b) applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

By mail: Mail Stop Petition
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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 this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Dershem, Patterson and Osuna
Application No. 10/865,506
Filed: June 10, 2004
Attorney Docket No. QUANT1190-7
For: Thermosetting Resin Compositions Containing Maleimide and/or Vinyl Compounds

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 15, 2005.

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.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Kuberasampath et al. :
Application No. 10/865,514 :
Filed: May 25, 2001 : ON PETITION
Attorney Docket Number: :
JJJ-P08-503: :

This decision is in response to the Petition to Change Name of Inventor Non-provisional Application, filed on February 19, 2004, under 37 CFR 1.182.

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 "Request for Reconsideration of Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition to change the name of inventor Thangavel Kuberasampath to Kuber T. Sampath. In support of the petition, Applicant provides the Declaration of Kuber T. Sampath, signed with the name of Kuber T. Sampath only.

A grantable petition to change the name of an inventor under 37 CFR 1.182 requires (1) the petition fee; and (2) either (a) a declaration signed with both names with an explanation of how the change was effected (marriage, divorce, etc.); or (b) provide a certified copy of a court order for the name change.

Accordingly, Applicant must provide a declaration signed with both names.

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

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

By FAX: 703-872-9306
Attn: Office of Petitions
(After July 15, 2005; 571-273-8300)

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
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Sampath et al. :
Application No. 10/865,514 :
Filed: May 25, 2001 : ON PETITION
Attorney Docket Number: :
JJJ-P08-503: :

This decision is in response to the Request for Reconsideration of Petition Under 37 CFR 1.182, filed September 6, 2005, under 37 CFR 1.182.

A grantable petition to change the name of an inventor under 37 CFR 1.182 requires (1) the petition fee; and (2) either (a) a declaration signed with both names with an explanation of how the change was effected (marriage, divorce, etc.); or (b) provide a certified copy of a court order for the
name change.

Petitioner has complied with the above requirements.

The petition is hereby **granted**.

The name change of inventor Kuber T. Sampath has been entered and made of record in the above-identified application[1].

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

Derek L. Woods
Attorney
Office of Petitions

Enclosures: Corrected Filing Receipt

[1] The Declaration of Kuber T. Sampath filed with the instant Request for Reconsideration of Petition Under 37 CFR 1.182 identifies the application number as 10/385,064, filed March 10, 2003, for Protein-Induced Morphogenesis. This Office assumes that the name change is intended for and has been made effective in the above-identified application identified in the instant Request for Reconsideration. If this assumption is incorrect, Petitioner must notify this Office immediately.

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Harry V. McGahey Esq.
McGahey & McGahey, APLC
1532 Sixth Ave.
San Diego CA 92101

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
LEONARD PELLEGRINO :
Application No. 10/865,520 : DECISION ON PETITION
Filed: June 10, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Pellegrino Grout Scrubber :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2005, 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 to File Missing Parts of Nonprovisional Application (Notice) mailed August 2, 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 application became abandoned on October 3, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the additional claim fee(s); (2) the small entity petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the additional claim fee(s) is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

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

Amelia Au
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DOUGLAS H MAY
PO BOX 14427
HUMBLE TX 77347

In re Application of :
Andrey Berg :
Application No. 10/865,524 : DECISION NOTING JOINDER
Filed: June 9, 2004 : OF INVENTOR AND PETITION
Attorney Docket No. 04-001 A : UNDER 37 CFR 1.47(b) MOOT

This is in response to the "PETITION UNDER 37 C.F.R. § 1.47", filed September 8, 2004, and the "CANCEL REQUEST FOR PETITION UNDER 37 C.F.R. § 1.47", filed September 13, 2004.

The above-identified application was filed on June 9, 2004, without an executed oath or declaration. Accordingly, on August 3, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47 on September 8, 2004, and paid both the petition fee and the surcharge for late filing of the declaration. On September 13, 2004, applicant filed a fully executed oath or declaration together with a request that the petition under 37 CFR 1.47 be cancelled and that the petition fee be refunded.

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

The petition fee of $130 will be refunded to petitioner in due course.

The application is being forwarded to Group Art Unit 3663 for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080728

DATE : July 28, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7317919 B1

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:

SPE: /Dwayne D. Bost/ Art Unit 2617

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OFFICE OF PETITIONS

In re Application of :
Shawn O'Neill Barrett, et. al. :
Application No. 10/865,586 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 77012-324238 :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 4, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 23, 2006. A Notice of Abandonment was mailed on December 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of a Request for Continued Examination (RCE) under 37 CFR 1.114 filed on January 4, 2008. However, as prosecution in the above application is not closed, the RCE is considered improper and the $810 fee will be refunded to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3636 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

OIPE JC194 OCT 28 2004 PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Melvin Bingenheimer	Attorney Docket:	MAN-11002/22
Serial No. :	10/865,606	Group Art Unit:	
Filed:	June 10, 2004	Examiner:	
For:	FLAME-RETARDANT STRUCTURE AND METHOD FOR PRODUCING		

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
FEB 18 2005

PETITION TO MAKE SPECIAL
BECAUSE OF APPLICANT'S AGE

Mail Stop No Fee
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P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions to make this application special because Applicant is over 65 years of age. Applicant's declaration in support of this petition is attached hereto. No fee is required with this petition, in accordance with 37 CFR Section 1.102(c).

Respectfully submitted,

Douglas J. McEvoy, Reg. No. 34,385
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394
(248) 647-6000

DJM/jtl

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail #EV 539902353 US in an envelope addressed to Mail Stop No Fee, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on October 28, 2004 2004.

Judith J. Lange
Judith J. Lange

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Christopher John Stakutis	: DECISION ON REQUEST FOR
Patent Number	: 7613889	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,625	: 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 **305** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 05/17/2010

Applicant : Christopher John Stakutis
Patent Number : 7613889
Issue Date : 11/03/2009
Application No: 10/865,625
Filed : 06/10/2004

: 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 **338** 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).

OIPE JC
JAN 31 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/865,628
Filing Date	June 10, 2004
First Named Inventor	Peter W. Keay
Art Unit	3764
Examiner Name	Unknown
Attorney Docket Number	PWK-100-B

APPROVED
1/25/05

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

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number [ ]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The client is indebted to us for a substantial amount of money; has not been making timely payments; we provided client with a copy of his entire file; there are no outstanding Office Actions.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm *or* Individual Name	Peter W. Keay				
Address	115 North Washington Street				
City	Owosso	State	MI	Zip	48867
Country	United States				
Telephone	989-725-2196			Fax	888-661-8141
Signature					
Name	Andrew R. Basile, Sr.			Registration No.	24,753
Date	1/27/05			Telephone No.	248-649-3333

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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MCDERMOTT WILL & EMERY LLP
2049 CENTURY PARK EAST
38th Floor
LOS ANGELES, CA 90067-3208

Mail Date: 04/20/2010

Applicant	: Eduardo H. Rubinstein	: DECISION ON REQUEST FOR
Patent Number	: 7611470	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,629	: 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 **1405** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP - 7 2004

In re Application of L. Conaway et al. Serial Number: 10/865,641 Filed: June 10, 2004 For: METHOD AND APPARATUS FOR SEPARATING BITUMEN FROM PARTICULATE SUBSTRATES	: : : : : :	PETITION UNDER M.P.E.P.708.02 V AND VI

This is in response to the petition filed June 10, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V and VI 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

Robert C. Brown
1207 Sandhurst Drive
Tallahassee FL 32312

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

Mail Date: 04/21/2010

Applicant	: Mark G. Ringdahl	: DECISION ON REQUEST FOR
Patent Number	: 7637365	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,647	: 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 **600** 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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SONNENSCHEIN NATH & ROSENTHAL, LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Becker :
Application No.: 10/865,658 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No.: 09777000-0033 :

This a decision on the "Response to Notice of Omitted Items in Nonprovisional Application", filed September 20, 2004, which will be treated as a petition under 37 CFR 1.182.

The petition is **moot.**

The subject non-provisional application was filed on June 10, 2004. On August 2, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items in Nonprovisional Application indicating that the application had been accorded a filing date, but that page 12 of the specification appeared to have been omitted. The notice allowed a two-month period for reply. The instant petition was filed on September 20, 2004, and was accompanied by the a preliminary amendment noting the incorporation by reference of application 10/039,566 and a copy of page 12 of the specification of application 10/039,566, and a preliminary amendment requesting entry of the same in application 10/865,658.

Petitioner concedes that page 12 of the specification was not present on filing, however; petitioner argues that the application was complete on filing and entitled to a filing date of June 10, 2004, with page 12 of the specification because application 10/865,658 incorporated by reference the entire disclosure of application 10/039,566.

Section 201.06(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> [i]f a continuation or a divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)", may be added by amendment provided in the omitted item(s) contains only subject matter in common with the prior application(s). In such case, applicant need not respond to the "Notice of Omitted Items(s)" Applicant should submit the amendment adding the omitted material prior to the first Office action. . .

In view of the incorporation by reference statement found in the application transmittal sheet and the preliminary amendment filed on September 20, 2004, no petition is deemed necessary in response to the Notice of Omitted Items. Applicant is deemed to have exercised the right under the Notice of Omitted Items to file no response to the Notice of Omitted Items. Accordingly, the application will retain a filing date of June 10, 2004, excluding page 12 of the specification.

The application will be forwarded to Technology Center 3700 for further processing and treatment of the preliminary amendment filed September 20, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petition 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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Sonnenschein Nath & Rosenthal, LLP
PO Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Becker :
Application No.: 10/865,658 : LETTER
Filed: June 10, 2004 :
Attorney Docket No.: 09777000-0033 :

This is regarding the petition decision mailed October 13, 2004, that was responsive to the "Response to the Notice of Omitted Items in Nonprovisional Application" filed September 20, 2004.

The petition decision mailed October 13, 2004, is vacated. The "Response to the Notice of Omitted Items in Nonprovisional Application" will not be treated as petition, but will be forwarded to Technology Center 3700 for consideration.

The subject non-provisional application was filed on June 10, 2004. On August 2, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in Nonprovisional Application" indicating that the application had been accorded a filing date, but that page 12 of the specification appeared to have been omitted. The notice allowed a two-month period for reply. The "Response to the Notice of Omitted Items in Nonprovisional Application was filed responsively on September 20, 2004, and was accompanied by a preliminary amendment noting the incorporation by reference of application 10/039,566, a copy of the page 12 of the specification of application 10/039,566, and a preliminary amendment requesting entry of the same in application 10/865,658. Applicant concedes that page 12 of the specification was not present on filing, however; applicant maintains that the application was complete on filing and entitled to a filing date of June 10, 2004, including page 12 of the specification, because application 10865,658 incorporated by reference the entire disclosure of application 10/039,566.

Section 201.06(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> [i]f a continuation or a divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)", may be added by amendment provided in the omitted item(s) contains only subject matter in common with the prior application(s). In such case, applicant need not respond to the "Notice of Omitted Items(s)" Applicant should submit the amendment adding the omitted material prior to the first Office action. . .

Based on the aforementioned, the "Response to Notice of Omitted Items in Nonprovisional Application" should not have been treated as a petition under 37 CFR 1.182 as no petition is required for acceptance of page 12 as part of the originally filed application papers on June 10, 2004. because the application was

entitled to a filing date despite the omission of page 12. The petition under 37 CFR 1.182 would have only been required if the omitted item was necessary in order to obtain a filing date. See MPEP 601.01. Because the application is entitled to a filing date, despite the omission of page 12, and an incorporation by reference statement was present on filing, a petition under 37 CFR 1.182 is not necessary. The petition decision mailed October 13, 2004, is vacated, accordingly.

The application will retain the filing date of June 10, 2004. The application will be directed to Technology Center 3700 for consideration of the preliminary amendment and, if the examiner determines that page 12 does not contain new matter, page 12 will be recognized as having being received with the original application papers on June 10, 2004, by virtue of the incorporation by reference of prior application 10/039,566.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Bozicevic, Field & Francis, LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Warner C. Greene et al.	:	
Application No. 10/865,663	:	DECISION ON PETITION
Filed: June 9, 2004	:	TO WITHDRAW
Attorney Docket No. UCAL-304	:	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 19, 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 Paula A. Borden and all attorneys/agents of record have been revoked by the assignee of the patent application on June 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: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date : February 19, 2010

Patent No. :7221976
Inventor(s) :Jean-Philippe Couderc and Wojciech Zabera
Issued :May 22, 2007
Title :ANALYSIS OF THE ALTERNANS CYCLE TO CYCLE AND/OR THE VARIABILITY :OF THE VENTRICULAR REPOLARIZATION WAVE IN AN ECG SIGNAL

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 Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1544

R.M. Isackson, Esq., Orrick, Herrington
& Sutcliffe, LLP, IP Prosecution Dept.
4, Park Plaza, Ste 1600,
Irvine, CA 92614-2558.

/arg

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KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH, MA 01772

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JUN 01 2007

OFFICE OF PETITIONS

In re Application of
William G. Berrocal, et. al.
Application No. 10/865,684
Filed: June 10, 2004
Attorney Docket No. 82141A

ON PETITION

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

The application became abandoned for failure to timely respond to the Notice of Allowability mailed June 16, 2006. A Notice of Abandonment was mailed on October 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of fifty-eight (58) sheets of replacement drawings containing Figures 1-74; (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 for review of the replacement drawings filed on January 8, 2007.

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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NEIL P. SIROTA
BAKER & BOTTS LLP
30 ROCKEFELLER PLAZA, 44TH FLOOR
NEW YORK, NY 10112-4498

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
KITA, et al. :
Application No. 10/865,716 : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 072071.0147 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2006 . Accordingly, the date of abandonment of this application is September 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 payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253. This application is being referred to Publishing Division for processing into a patent.

Amelia Au
Petitions Examiner
Office of Petitions

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SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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APR 21 2008

OFFICE OF PETITIONS

In re Application of :
Hsu Kai (Karl) YANG, et al :
Application No. 10/865,717 : ON PETITION
Filed: June 9, 2004 :
Attorney Docket No. HT04-006-3075P :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 14, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 August 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2188 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 Wise
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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MEHRMAN LAW OFFICE, P.C.
ONE PREMIER PLAZA
5605 GLENRIDGE DRIVE, STE. 795
ATLANTA, GA 30342

COPY MAILED
SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Donald L. Runyon :
Application No. 10/865,737 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No.: 06935.105042 :

This is a decision on the petition, filed September 11, 2006[1], under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [2]

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 2817 for further processing of the request for continued examination under 37 CFR 1.114 filed September 12, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] A copy of the petition was provided by facsimile transmission on September 12, 2006.

[2] 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
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Date : September 13, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Donald L. Runyon
Application No. : 10/865,737
Filed : June 10, 2004

The above-identified application has been assigned Patent No. 7,109,824 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. 7,109,824 to DONALD L. RUNYON of GEORGIA for VARIABLE POWER DIVIDER appearing in the Official Gazette of September 19, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-441 (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 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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JJGJR.: 11-04

Paper No: __

PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Fralick, et al.
Application No. 10/865,740
Filed: 10 June, 2004
Attorney Docket No. 3282.2.4

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 October, 2004.

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 application was filed on 10 June, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 2 August, 2004, the Office mailed a Notice to File Missing Parts;

- on 22 October, 2004, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee (and request and fee) for a one- (1-) month extension of time); an oath/declaration signed by named inventors save for Marvin Distel (Mr. Distel); and a narratives within the petition by Petitioner A John Pate (Reg. No. 36,234), however: (a) there was no document evidencing transmittal of the entire application to Mr. Distel, and (b) while the petition states a Utah address for Mr. Distel, the petition also clearly states that he is now known to live in New Mexico.

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.

Thus, 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.

And a reasonable effort must be made to ascertain a current or last known address.

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 materials submitted thus far do not clearly evidence that the entire application was sent to the alleged non-signing inventor. Petitioner should submit a copy of the transmittal letter as to the former and a copy of the appointment document as to the latter. In addition, Petitioner has indicated that the non-signing inventor lives in New Mexico and, so, Petitioner, must either provide that last known New Mexico address or evidence that a reasonable and responsible effort has been made to ascertain that address to no avail.

Therefore, the instant petition must be and 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
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJR.: 01-05

Paper No: __

PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of
Fralick, et al.
Application No. 10/865,740
Filed: 10 June, 2004
Attorney Docket No. 3282.2.4

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 December, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 10 June, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 2 August, 2004, the Office mailed a Notice to File Missing Parts;

- on 22 October, 2004, Petitioner filed, *inter alia*, the original petition under 37 C.F.R. §1.47, with fee (and request and fee) for a one- (1-) month extension of time); an oath/declaration signed by named inventors save for Marvin Distel (Mr. Distel), the non-signing inventor; and a narratives within the petition by Petitioner A John Pate (Reg. No. 36,234), however: (a) there was no document evidencing transmittal of the entire application to Mr. Distel, and (b) while the petition states a Utah address for Mr. Distel, the petition also clearly states that he is now known to live in New Mexico, and for those reasons the petition was dismissed on 5 November, 2004;

- as indicated above, the instant petition was filed on 22 December, 2004, and therewith Petitioner has evidenced that a due diligence effort was made to ascertain the current address of the non-signing inventor; by a copy of the transmittal letter that the entire application (specification, claims, drawings) was forwarded to the non-signing inventor at that current address, however, the inventor nonetheless has failed to sign the oath or declaration; and by supplement to the petition, Petitioner has set forth the last known and current address of the non-signing inventor.

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

JJGJR.: 01-05

Paper No: ___

MARVIN DISTEL
8710 LAS CAMAS ROAD NE
ALBUQUERQUE, NM 87111

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of
Fralick, et al. :
Application No. 10/865,740 : COMMUNICATION
Filed: 10 June, 2004 :
Attorney Docket No. 3282.2.4 :

Dear Marvin Distel:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of
Oohira et al.
Application No. 10/865,751
Filed: June 14, 2004
Title of Invention: Pressure-Sensitive Adhesive Component For Ankle and Use Thereof

ON PETITION

This is a decision on the petition under 37 CFR §1.181, filed February 5, 2008 as a petition to withdraw the holding of abandonment.

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

This application was held abandoned for failure to timely submit the corrected drawings, as required by the Notice of Allowability which was mailed August 10, 2007. The Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). A Notice of Abandonment was mailed December 6, 2007.

Petitioner asserts that a 37 CFR 1.312 amendment filed on November 8, 2007 overcame the objections made on the Notice of Allowability.

A review of the record confirms that two 312 amendments were filed in response to the Notice of Allowance and Notice of Allowability. The amendment submitted on November 9, 2007 was entered. Although the record is devoid of entry of the November 8, 2007 312 amendment, the Office has confirmed with Supervisory Patent Examiner Yu that the 312 amendment can be entered and has overcome the requirement to submit corrected drawings.

Accordingly, the holding of abandonment is hereby withdrawn.

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

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

Charlema R. Grant

Charlema R. Grant
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

In re Patent No. 6862779
Issue Date: March 8,2005
Application No. 10865755
Filed: June 14,2004
Attorney Docket No. BHT-3215-82

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 28,2009 ,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 December 28,2009 . 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)
6862779	2005-03-08	10865755	2004-06-14	T-1849 (CFP-015986)

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	/james h walters/	Date (YYYY-MM-DD)	2009-12-28
Name	James H. Walters	Registration Number	35731

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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DIW Apr-08

MODIANO & ASSOCIATI
Via Meravigli, 16
20123 MILANO
ITALY

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Cesare Rivetta	:	DECISION ON PETITION TO
Application Number: 10/865777	:	WITHDRAW HOLDING OF
Filing Date: 06/14/2004	:	ABANDONMENT
Attorney Docket Number:	:	
38375/GM/pal	:	

This is a decision on reference to the "REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT (MPEP 711.03)," filed on March 12, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election mailed on June 20, 2007, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on February 28, 2008.

Petitioner asserts that a proper and timely reply in the form of an election and a three (3) month extension of time was filed by facsimile on October 16, 2007. In support, a copy of the reply and the facsimile sending unit's transmission receipt has been provided with the subject petition.

A review of the record reveals that the response and three (3) month extension of time was filed on October 16, 2007, and is located in the Office's Image File Wrapper system.

As such, the papers filed on October 16, 2007, constituted a complete and timely response to the Office communication mailed on June 20, 2007.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

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

The Office apologizes for any inconvenience to petitioner.

The application will be referred to Technology Center Art Unit 1795 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/26/2010

Applicant	: Masaki Ishii	: DECISION ON REQUEST FOR
Patent Number	: 7590289	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/865,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1127** 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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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Keisuke Nakazawa	:	
Application No. 10/865,812	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 254389US2S	:	

This is a decision on the petition, filed March 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\865812.wpd

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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 30 2005

Director's Office
Group 3700

Steven P. Weihrouch
OBLON, SPIVAK, McCLELLAND, MAIER & NEWSTADT, P.C.
1940 Duke Street
Alexandria VA 22314

In re Application of: Masayasu MIZOBUCHI :
Appl. No.: 10/865,814 : DECISION ON PETITION
Filed: June 14, 2004 :
For: CONTROL APPARATUS AND CONTROL: METHOD FOR VEHICLE-MOUNTED : INTERNAL COMBUSTION ENGINE :

This is a decision on the petition filed March 30, 2005 by which petitioner requests notification of consideration of the information disclosure statement (IDS) filed September 3, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed as moot.

Review of the application shows that evidence of consideration of the IDS which petitioner seeks was attached to the Office Action mailed March 28, 2005. It appears this Office Action crossed in the mail with the instant petition, and it is concluded that petitioner has received the notification sought, rendering the instant petition moot.

Should petitioner not have received evidence of consideration of the IDS which petitioner seeks with the Office Action mailed March 28, 2005, petitioner is advised of the availability of office papers via the PAIR system. Petitioner may also contact the examiner of record and request a copy of the evidence of consideration of the IDS be faxed to petitioner.

PETITION DISMISSED

Richard A. Bertsch, Director
Technology Center 3700

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WANG CHIN-FA
PO BOX 487
CHANG-HUA CITY 500 TW TAIWAN

In re Application of :
Chin-Fa Wang :
Application No. 10/865,833 : ON PETITION
Filed: June 14, 2004 :
Title: Rope Structure :

This is a decision on the paper titled "REQUEST FOR REVIVAL OF PATENT", filed October 20, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 based on applicant's argument of a timely filed reply (and the fact that applicant did not pay a petition fee).

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed February 22, 2006, which set a shortened statutory period for reply of three (3) months. On May 22, 2006, Applicant filed an amendment. However, by Advisory Action mailed July 18, 2006, the Examiner informed Applicant that the amendment would not be entered because it failed to place the application in condition

for allowance. No further proper reply with an extension of time was filed. Accordingly, the application became abandoned on May 23, 2006. A courtesy Notice of Abandonment was mailed on September 28, 2006.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. An applicant should not permit the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action, such as an Advisory Action.[1]

Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been August 22, 2006. An applicant should not wait to take action until receipt of an advisory action which might not even be mailed until more than six months after the mailing of the final Office action.

While the showing of record is not sufficient to withdraw holding of abandonment, applicant is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); currently $750, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). A copy of a form for a petition under 37 CFR 1.137(b) is enclosed.

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

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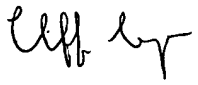
[1] MPEP 711.03(c)(III)(C)(2).

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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PO BOX 487
CHANG-HUA CITY 500 TW TAIWAN

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APR 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Chin-Fa Wang :
Application No. 10/865,833 : ON PETITION
Filed: June 14, 2004 :
Title: Rope Structure :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 8, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)." As applicant has already paid the petition fee, no further petition fee is due.

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed February 22, 2006, which set a shortened statutory period for reply of three (3) months. On May 22, 2006, Applicant filed an amendment. However, by Advisory Action mailed July 18, 2006, the Examiner informed Applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper reply with an extension of time was filed. Accordingly, the application became abandoned on May 23, 2006. A courtesy Notice of Abandonment was mailed on September 28, 2006. Applicant filed a petition to withdraw the holding of abandonment on

October 20, 2006, arguing that he did file a reply on May 22, 2006. However, the petition was dismissed in a decision mailed on December 8, 2006. The decision pointed out that the issue was not whether or not applicant filed a reply on May 22, 2006. Rather, because the last Office action was a final Office action, the issue was whether applicant's May 22, 2006 reply was a proper reply - i.e. an amendment placing the application in condition for allowance, a Request for Continued Examination (RCE), or a continuation application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); currently $750, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition does not meet element (1).

For his reply, applicant has resubmitted a copy of the amendment he previously filed on May 22, 2006. However, the Examiner has already considered that amendment, and in the Advisory Action mailed July 18, 2006, informed applicant that the amendment would not be entered because it failed to place the application in condition for allowance.

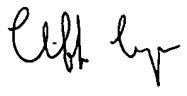
Accordingly, on renewed petition, applicant must submit a Request for Continued Examination (RCE), a Notice of Appeal, or a continuation application.

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



Cliff Congo
Petitions Attorney
Office of Petitions

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WANG CHIN-FA
PO BOX 487
CHANG-HUA CITY 500 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Chin-Fa Wang	:	
Application No. 10/865,833	:	ON PETITION
Filed: June 14, 2004	:	
Title: Rope Structure	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 11, 2007.

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

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed February 22, 2006, which set a shortened statutory period for reply of three (3) months. On May 22, 2006, Applicant filed an amendment. However, by Advisory Action mailed July 18, 2006, the Examiner informed Applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper reply with an extension of time was filed. Accordingly, the application became abandoned on May 23, 2006. A courtesy Notice of Abandonment was mailed on September 28, 2006. Applicant filed a petition to withdraw the holding of abandonment on October 20, 2006, arguing that he did file a reply on May 22, 2006. However, the petition was dismissed in a decision mailed on December 8, 2006. The decision pointed out that the issue was not whether or not applicant filed a reply on May 22, 2006. Rather, because the last Office action was a final Office action, the issue was whether applicant's May 22, 2006 reply was a proper reply - i.e. an amendment

placing the application in condition for allowance, a Request for Continued Examination (RCE), or a continuation application.

With the instant renewed petition, applicant has submitted the required reply in the form of an RCE. Applicant met the other requirements for a grantable petition with the petition filed February 8, 2007.

The matter is being forwarded to Group Art Unit 3765 for consideration of the RCE filed May 11, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DR. MARK FRIEDMAN LTD.
C/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of :
Shlomo, et al. :
Application No. 10/865,859 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 3104/2

This is a decision on the petition under 37 CFR 1.181 filed on June 26, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006.

In the instant petition, petitioner maintains that the Notice of Non-Complaint Amendment was never received by Dr. Mark Friedman in Tel Aviv, Israel. Dr. Friedman is the attorney of record for the application, but the correspondence address of record is that of an agent of Dr. Friedman's in Upper Marlboro, Maryland.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

It is further noted that 37 CFR 1.33(a) provides that:

> **37 CFR 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.**
>
> (a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere,

> correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address.

Relative to the instant petition, the material issue is whether the Notice of Non-Compliant Amendment was received at the correspondence address of record as set forth for the application pursuant to 37 CFR 1.33(a). The instant petition is accompanied by evidence that the Notice of Non-Compliant Amendment was not received by Dr. Friedman in Tel Aviv, Israel, but does not demonstrate that the Notice of Non-Compliant Amendment was not received at the correspondence address of record. As indicated by the 37 CFR 1.33(a) cited above, the USPTO does not normally engage in dual correspondence and is, therefore, obliged only to make sure the Office communication is received at the correspondence address of record. Accordingly, where, as in this case, a petition to withdraw the holding of abandonment is filed on the basis of non-receipt of an Office communication, the burden rests with petitioner to demonstrate that the Office communication was not received at the correspondence address of record, not a secondary address to which the correspondence may be forwarded by an agent unrelated to the USPTO. The instant petition fails to make this showing. Petitioner may wish to file a renewed petition with evidence of Mr. Polkinghorn's non-receipt of the Office communication, i.e., copies of docketing records for correspondence received and forwarded to Dr. Friedman. If petitioner is not able to satisfy this requirement, the application may also be revived pursuant to 37 CFR 1.137(b).

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of :
Shlomo, et al. :
Application No. 10/865,859 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 3104/2

This is a decision on the renewed petition under 37 CFR 1.181 filed on September 19, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006. A petition under 37 CFR 1.181 to withdraw the holding of abandonment was first filed on June 26, 2006, and dismissed by a decision mailed August 22, 2006.

In the instant renewed petition, petitioner maintains that the Notice of Non-Complaint Amendment was never received by Mr. Bill Polkinghorn who is the agent for the attorney of record, Dr. Mark Friedman in Tel Aviv, Israel.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In the dismissal of August 22, 2006, petitioner was advised that in order for this petition to be considered grantable, petitioner would have to provide evidence of Mr. Polkinghorn's non-receipt

of the Office communication, i.e., docketing records for correspondence received and forwarded to Dr. Friedman. This is also what is required by MPEP § 711.03(c) cited above. The necessary docketing records did not accompany the instant renewed petition. The petition is dismissed accordingly.

Petitioner is informed that petition to withdraw the holding of abandonment will not be successful without the docketing records of Mr. Polkinghorn. Petitioner may file a petition under 37 CFR 1.137(b) to revive the application. Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents United States Patent and Trademark Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Shlomo, et al. :
Application No. 10/865,859 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 3104/2

This is a decision on the second renewed petition under 37 CFR 1.181 filed on January 10, 2007, to withdraw the holding of abandonment.

The second renewed petition is **DISMISSED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006. A petition under 37 CFR 1.181 to withdraw the holding of abandonment was first filed on June 26, 2006, and dismissed by a decision mailed August 22, 2006. A renewed petition was filed on September 19, 2006, and dismissed by a decision mailed November 20, 2006. The instant second renewed petition was filed on January 10, 2007; the petition is accompanied by a declaration from Bill Polkinghorn.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In the dismissals of August 22, 2006, and November 20, 2006, petitioner was advised that in order for this petition to be considered grantable, petitioner would have to provide evidence of Mr. Polkinghorn's non-receipt of the Office communication, i.e., docketing records for correspondence received and forwarded to Dr. Friedman. It is again noted that the material issue is whether the Notice of Non-Compliant Amendment was received at the correspondence address of record as set forth for the application pursuant to 37 CFR 1.33(a). The declaration of Mr. Polkinghorn provides only general statements of the arrangement between Mr. Polkinghorn and petitioner. The declaration does not provide *prima facie* evidence, i.e., docketing records or calendar notations, that the Notice of Non-Compliant Amendment was

not received by Mr. Polkinghorn whose address is the correspondence address of record for this application. As Mr. Polkinghorn's declaration states that he does not keep docketing records, it will not be possible for petitioner to establish that the Notice of Non-Compliant Amendment was not received at the correspondence address of record. The petition is again dismissed. ***As a petition to withdraw the holding of abandonment will not be successful under the facts presented, petitioner is encouraged to file a petition under 37 CFR 1.137(b) to revive the application and avoid further unnecessary delay in prosecuting the application.***

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

COPY MAILED

JUN 2 1 2007

OFFICE OF PETITIONS

In re Application of
Shlomo, et al.
Application No. 10/865,859
Filed: June 14, 2004
Attorney Docket No. 3104/2

ON PETITION

This is a decision on the third renewed petition under 37 CFR 1.181 filed on May 30, 2007, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006. A petition under 37 CFR 1.181 to withdraw the holding of abandonment was first filed on June 26, 2006, and dismissed by a decision mailed August 22, 2006. A renewed petition was filed on September 19, 2006, and dismissed by a decision mailed November 20, 2006. The second renewed petition was filed on January 10, 2007, and dismissed by a decision mailed March 28, 2007.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In the dismissals of August 22, 2006, November 20, 2006, and March 28, 2007, petitioner was advised that in order for this petition to be considered grantable, petitioner would have to provide evidence of Mr. Polkinghorn's non-receipt of the Office communication, i.e., docketing records for correspondence received and forwarded to Dr. Friedman. It is again noted that the material issue is whether the Notice of Non-Compliant Amendment was received at the correspondence address of record as set forth for the application pursuant to 37 CFR 1.33(a). The declaration of Mr. Polkinghorn provided only general statements of the arrangement between Mr. Polkinghorn and petitioner. The declaration did not provide *prima facie* evidence, i.e., docketing records or calendar notations, that Mr. Polkinghorn whose address is

the correspondence address of record for this application did not receive the Notice of Non-Compliant Amendment. As Mr. Polkinghorn's declaration states that he does not keep docketing records, it will not be possible for petitioner to establish that the Notice of Non-Compliant Amendment was not received at the correspondence address of record.

Petitioner's argument in the instant renewed petition is again unpersuasive. Petitioner states that the Mr. Polkinghorn only collects petitioner's mail and forwards the mail to petitioner overseas. Petitioner also states that Mr. Polkinghorn does not open the mail and that it would be an undue burden on Mr. Polkinghorn to maintain docket records for all of the correspondence received. Mr. Polkinhorn's function is understood. It is again noted that the USPTO is only obligated to ensure that correspondence is received at the correspondence address of record. The presumption is that correspondence sent by the USPTO is received at the correspondence address. When the correspondence is allegedly not received, it is incumbent upon the petitioner to establish non-receipt of the correspondence by the presentation of docket records. There is, therefore, an inherent risk in using a correspondence address for a patent application where the recipient maintains no records of the correspondence received. When, as in this case, the petitioner needs to provide evidence that the correspondence was not received at the correspondence address of record, petitioner will not be able to provide the necessary evidence. The petition is again dismissed. ***As a petition to withdraw the holding of abandonment will not be successful under the facts presented, petitioner is encouraged to file a petition under 37 CFR 1.137(b) (copy enclosed) to revive the application and avoid further unnecessary delay in prosecuting the application.***

Petitioner is advised that the USPTO does mail to international addresses. To avoid a mishap such as this in the future, petitioner may want to consider having the correspondence for this application to be sent to an address where the correspondence received can be opened and noted in a docketing system.

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

DATE: 8/29/07 APPLICATION NUMBER: 10/865,859

DOC CODE: PET.DEC.TC DOC DATE: 8/31/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Shlomo, et al. :
Application No. 10/865,859 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 3104/2

This is a decision on the petition under 37 CFR 1.137(b) filed on August 21, 2007.

The petition is **GRANTED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006.

This application is being directed to Technology Center 3700, GAU 3754 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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DR. MARK FRIEDMAN LTD.
c/o Bill Polkinghorn
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Shlomo, et al. :
Application No. 10/865,859 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 3104/2

This is a decision on the petition under 37 CFR 1.137(b) filed on August 21, 2007.

The petition is **GRANTED**.

The application became abandoned on April 12, 2005, after no response was received to the Notice of Non-Compliant Amendment mailed March 11, 2005, which set period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed on May 19, 2006.

This application is being directed to Technology Center 3700, GAU 3754 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LITMAN LAW OFFICES, LTD.
P O BOX 15035 CRYSTAL CITY STATION
ARLINGTON, VA 22215

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Ruairidh Robertson :
Application No. 10/865,863 : DECISION GRANTING PETITION
Filed: June 14, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 24787.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 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 November 16, 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 February 17, 2005. A Notice of Abandonment was mailed on June 1, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) an amendment in reply to the non-final Office action of November 16, 2004, (2) the $750 small entity petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 16, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3742 for appropriate action in the normal course of business on the reply received with the petition to revive.

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

Melanie McCollum
Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

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OCT 11 2006

OFFICE OF PETITIONS

In re Application of

Jean-Noel Telles et al.
Application No. 10/865,889
Filed: June 14, 2004
Attorney Docket No. 111380.01

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 July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie McCollum: (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, Melanie McCollum has/have 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 address of record remains unchanged.

The attorneys and/or agents associated with the firm Oliff & Berridge remain the practitioners of record.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Melanie McCollum**
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Wen-Ching Hou et al.
Application No. 10/865,896
Filed: June 14, 2004
Attorney Docket No. 3624-0173PUS1

ON PETITION

This is a decision on the petition filed September 26, 2007 to withdraw the holding of abandonment , under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before June 27, 2007 as was required by the Notice of Allowance mailed March 27, 2007. This application therefore became abandoned on June 28, 2007. Accordingly, a Notice of Abandonment was mailed July 26, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record, the address also used for mailing the Notice of Abandonment which was in fact received, however, petitioner contends that it was not received. In support, petitioner indicates that a search of the docket for the instant application and that of the entire firm revealed that the Notice was not received and submits copies of pages from the docketing systems, wherein receipt of the Notice of Allowance would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No fees are due and none have been charged.

This matter will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
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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MAILED

MAR 0 1 2010

OFFICE OF PETITIONS

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

In re Application of Wind et al. :
Application No. 10/865,915 : LETTER REGARDING
Filed: June 14, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 07781.017-00 :

This letter is in response to the "Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation" filed October 2, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED.**

The Office has updated the PALM screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 708 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 17, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 785 days. Applicants submitted the instant request for review on October 2, 2009, prior to payment of the issue fee on December 7, 2009.

Applicants disclose the patent term adjustment may be incorrect because the Office failed to enter a 77-day reduction in patent term adjustment as a result of the Information Disclosure Statement ("IDS") filed September 3, 2009.

The Office mailed a non-final Office action. Applicants filed a reply to the Office action on June 18, 2009, and subsequently filed an IDS on September 3, 2009.

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The record fails to indicate the examiner expressly requested the IDS and the IDS did not include a statement under 37 C.F.R. § 1.704(d). Therefore, the filing of the IDS should have resulted in a reduction of 77 days which is the number of days beginning on the day after applicants filed the June 18, 2009 reply and ending on September 3, 2009, the date the IDS was filed.

In view of the prior discussion, the Office has entered a 77-day reduction in patent term adjustment.

The patent term adjustment at the time of mailing of the notice of allowance is 708 days which is 786 days of Office delay reduced by 78 (1 + 77) days of Applicant delay.

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Friday
Date: 2/26/2010

PALM INTRANET

Time: 12:36:31

PTA Calculations for Application: 10/865915			
Application Filing Date:	06/14/2004	PTO Delay (PTO):	786
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1
Post-Issue Petitions:	0	Total PTA (days):	708
PTO Delay Adjustment:	-77		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
115	02/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		77	
101	09/17/2009	MAIL NOTICE OF ALLOWANCE			
100	09/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
99	09/16/2009	ISSUE REVISION COMPLETED			
98	09/16/2009	DOCUMENT VERIFICATION			
97	09/08/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
96	09/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
95	09/14/2009	NOTICE OF ALLOWABILITY			
94	09/03/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
93	09/03/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
92	08/07/2009	DATE FORWARDED TO EXAMINER			
91	06/18/2009	RESPONSE AFTER NON-FINAL ACTION			
90	04/09/2009	MAIL NON-FINAL REJECTION			
89	04/09/2009	NON-FINAL REJECTION			
88	03/30/2009	DATE FORWARDED TO EXAMINER			
87	03/19/2009	RCE- AF PROCESSED			
86	03/30/2009	DATE FORWARDED TO EXAMINER			
85	03/19/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
84	03/30/2009	DISPOSAL FOR A RCE / CPA / R129			
83	03/19/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
82	03/12/2009	MAIL ADVISORY ACTION (PTOL - 303)			
81	03/11/2009	ADVISORY ACTION (PTOL-303)			

80	03/06/2009	DATE FORWARDED TO EXAMINER			
79	02/27/2009	AMENDMENT AFTER FINAL REJECTION			
78	02/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
77	02/18/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	12/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
75	12/18/2008	FINAL REJECTION			
74	10/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	10/27/2008	REFERENCE CAPTURE ON IDS			
72	10/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	70
71	11/15/2008	DATE FORWARDED TO EXAMINER			
70	10/27/2008	RESPONSE AFTER NON-FINAL ACTION			
69	10/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	08/01/2008	MAIL NON-FINAL REJECTION			
67	07/31/2008	NON-FINAL REJECTION			
66	06/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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63	06/27/2008	MISCELLANEOUS INCOMING LETTER			
62	07/09/2008	DATE FORWARDED TO EXAMINER			
61	06/26/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
60	07/09/2008	DATE FORWARDED TO EXAMINER			
59	06/26/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
58	07/09/2008	DISPOSAL FOR A RCE / CPA / R129			
57	06/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	06/26/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
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52	05/22/2008	AMENDMENT AFTER FINAL REJECTION			
51	04/03/2008	CORRESPONDENCE ADDRESS CHANGE			

50	03/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
49	01/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
48	12/06/2004	PRELIMINARY AMENDMENT			
47	11/01/2004	CORRECTED FILING RECEIPT			
46	03/14/2008	FINAL REJECTION			
45	01/08/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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40	01/08/2008	RESPONSE AFTER NON-FINAL ACTION			
39	01/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
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36	10/09/2007	MAIL NON-FINAL REJECTION	786		-1
35	10/01/2007	NON-FINAL REJECTION			
34	09/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	10/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/08/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
30	09/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	02/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	02/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	01/19/2005	CORRESPONDENCE ADDRESS CHANGE			
24	11/01/2004	MISCELLANEOUS INCOMING LETTER			
23	09/20/2004	CERTIFIED TRANSLATION OF FOREIGN PRIORITY DOCUMENT			
22	12/06/2004	PRELIMINARY AMENDMENT			
21	10/27/2004	MISCELLANEOUS INCOMING LETTER			
20.7	10/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

19	09/20/2004	MISCELLANEOUS INCOMING LETTER			
18.7	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/20/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
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15	10/13/2004	APPLICATION RETURN FROM OIPE			
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12	10/13/2004	APPLICATION IS NOW COMPLETE			
11	10/13/2004	APPLICATION RETURN TO OIPE			
10	10/12/2004	APPLICATION DISPATCHED FROM OIPE			
9	10/12/2004	APPLICATION IS NOW COMPLETE			
8	09/20/2004	ADDITIONAL APPLICATION FILING FEES			
7	09/20/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	08/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/19/2004	CLEARED BY OIPE CSR			
3	07/19/2004	CASE CLASSIFIED BY OIPE			
2	06/24/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/14/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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BOX 401
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OFFICE OF PETITIONS

In re Application of	:	
Mailvaganam Mahendran et al	:	
Application No. 10/865,928	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 4320-562	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed December 17, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Meng-An Pan	: DECISION ON REQUEST FOR
Patent Number	: 7596195	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/865,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1459** 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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Meng-An Pan
Patent Number : 7596195
Issue Date : 09/29/2009
Application No: 10/865,951
Filed : 06/14/2004

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

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

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

The patent term adjustment has been determined to be **1491** 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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Paper No.

ROBERT R. WATERS, ESQ.
WATERS LAW OFFICE, PLLC
633 SEVENTH STREET
HUNTINGTON WV 25701

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OFFICE OF PETITIONS

In re Application of :
Charles Hensley : DECISION ON PETITION
Application No. 10/865,960 :
Filed: June 12, 2004 :
Attorney Docket No. 164PA0103 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT Dated November 28, 2008" filed November 28, 2008.

The petition under § 1.181 is **GRANTED**.

By Notice of Abandonment mailed May 8, 2008, applicants were advised that the application was abandoned as a result of their failure to timely file a proper reply to the Office letter mailed on February 27, 2008. The Office letter mailed February 27, 2008 was the decision by the Board of Patent Appeals and Interferences, affirming in part the examiner.

Citing MPEP §1214.06, Petitioner argues that because the decision was an Affirmation-In-Part, jurisdiction was returned from the Board to the Examiner. Thus, no action was required by applicants.

Petitioner's arguments have been considered and found persuasive. Petitioner is correct that the holding of abandonment is not proper.

Accordingly, the Notice of Abandonment mailed May 8, 2008 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is granted.

No fee is required on petition under § 1.181.

Technology Center AU 3749 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for action by the examiner on the application after decision by the Board.

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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SEP 13 2004

In re Application of :
Shi Jung Chen : DECISION ON PETITION
Application No. 10/865,961 :
Filed: June 10, 2004 :
Attorney Docket No. 550122000900

This is a decision on the petition to make special filed on June 10, 2004. The petition is based upon the practice described in MPEP § 708.02(V) "Environmental Quality" and MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is dismissed.

The petition to make special based upon the practice in the above mentioned MPEP sections is not deemed to satisfy all of the requirements thereof. Specifically, the claimed invention is a generic poppet, or a generic apparatus using a poppet, and is not limited to alternative fuel technologies.

A renewed petition may be filed provided that the renewed petition is filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013

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MORRISON & FOERSTER
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Shi Jung Chen	:	DECISION ON PETITION
Application No. 10/865,961	:	TO MAKE SPECIAL
Filed: June 10, 2004	:	37 CFR 1.102(c)
Attorney Docket No. 550122000900	:	

This is a decision on the renewed petition under 37 CFR §1.102(c), filed October 25, 2004, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section V: Environmental Quality.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section V: Environmental Quality must be accompanied by statements by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the inventions contribute to the restoration or maintenance of one of the basic life-sustaining natural elements, i.e., air, water, and soil. No fee is required

The renewed petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(V) of the MPEP. Accordingly, the above-identified application has been accorded "special" status.

The special status of this application is contingent upon the retention of the claimed invention drawn towards the alternative fuel vehicle. If claim(s) drawn towards the alternative fuel vehicle are canceled or are not actively prosecuted in this application, e.g., withdrawn from consideration due to a restriction requirement, the special status granted in this decision shall be removed. The case will then be examined in its regular turn.

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

All other inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

This matter is being referred to the Technology Center Art Unit 3753 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 8, 2010

TO SPE OF : ART UNIT 2871
SUBJECT : Request for Certificate of Correction for Appl. No /10/865996 / Patent no.7280167

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

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-2871

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Rachele Wittwer
IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles CA 90067

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OFFICE OF PETITIONS

In re Application of :

ANVAR, et al. :
Application No. 10/866,001 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. 158267-0003 : 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 **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 Norman E. Brunell 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 sole inventor Bardia A. Anvar at the address indicated below. There is an outstanding Office action mailed July 14, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Bardia A. Anvar, M.D.**
3669 Sapphire Drive
Encino, CA 91436

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/866,001	06/10/2004	Bardia A. Anvar	

CONFIRMATION NO. 9744

OC000000020708422

Rachele Wittwer
IRELL & MANELLA LLP
Suite 900
1800 Avenue of the Stars
Los Angeles, CA 90067

Date Mailed: 10/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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Karl Ruping
MolySym, Inc.
411 Massachusetts Ave.
Cambridge MA 02139

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NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of
Sherman, et al.
Application No. 10/866,017
Filed: June 10, 2004
Attorney Docket No. MOL-002
For: METHOD AND SYSTEM FOR INTERACTIVE MOLECULAR DOCKING AND FEEDBACK

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed October 6, 2004, requesting that withdrawal of the Notice of Omitted Items in a Nonprovisional Application, mailed August 6, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was filed on June 10, 2004. On August 6, 2004, the Office of Initial Patent Examination mailed a " Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) informing petitioner that figure 1 appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Office accord a June 10, 2004 filing date for figure 1 on the basis that the allegedly omitted figure was received in the Patent and Trademark Office (PTO) on June 10, 2004. The petition is signed by joint inventor and attorney of record, Karl Ruping, who attests that figure 1 was present when the application was mailed to the Office.

Mr. Ruping states without equivocation or doubt that the photocopy of the application in his file is what he mailed to the Office on June 10, 2004. The photocopy of the application contains figure 1.

The Office file is the official record of what was mailed by Express Mail or filed on June 10, 2004. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the petition was created almost four months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

To reiterate, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.

The itemized date-stamped postcard receipts submitted with the instant petition are for application no. 60/477,283, not application no. 10/866,017. Petitioners are urged to submit the itemized date-stamped postcard receipt for application no. 10/866,017.

Since figure 1 was not proven to be among the papers filed on June 10, 2004, the application cannot be accorded a June 10, 2004 filing date with figure 1 as part of the original disclosure of this application.

The petition is **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing. Figure 1 submitted with the instant petition will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Mattingly, Stanger, Malur &
Brundidge, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

In re application of : **DECISION ON PETITION**
Youichi Gotoh, et al : **TO MAKE SPECIAL**
Application No. 10/866041 : **(ACCELERATED**
Filed: June 14, 2004 : **EXAMINATION)**
For: DISK ARRAY DEVICE AND RESERVATION CANCELLATION CONTROL METHOD FOR DISK ARRAY DEVICE

This is in response to the renewed petition filed on September 16, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 10/3/05

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AUG 31 2005

Director's Office
Group 3700

Patent Administrator
Katten Muchin Zavis Rosenman
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661-3693

In re Application of : DECISION ON PETITION
Harold Godwin, et al. : TO MAKE SPECIAL
Serial No. : 10/866,044 : (INFRINGEMENT)
Filed : June 14, 2004 :
For : **MOLDING SYSTEM WITH INTEGRATED FILM HEATERS AND SENSORS**

This is a decision on the petition under C.F.R. § 1.102(d) filed October 04, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

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

The petition filed October 04, 2004, includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

/Richard A. Bertsch/

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
rt/ 8/29/05

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NENA BAINS
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of :
Frank W. Ingle et al :
Application No. 10/866,052 : NOTICE
Filed: June 10, 2004 :
Attorney Docket No. 017761-000131US

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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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	:	
Frank Ingle et al.	:	
Application No. 10/866,052	:	DECISION ON PETITION
Filed: June 10, 2004	:	TO WITHDRAW
Attorney Docket No. 017761-000131US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 5, 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 Mark D. Barrish and all attorneys/agents of record have been revoked by the assignee of the patent application on June 27, 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: Oppenheimer Wolff & Donally, LLP
45 South Seventh Street, Suite 3300
Minneapolis, MN 55402

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OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of :
Kodama and Aoai :
Application No. 10/866,054 : DECISION GRANTING PETITION
Filed: June 14, 2004 :
Attorney Docket No. Q82138 :

This is a decision on the petition filed December 21, 2004, to vacate "Notice of Omitted Items in Nonprovisional Application" (the "Notice") November 24, 2004.

The petition is **granted**.

On June 14, 2004, the above-identified application was filed. However, on November 24, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of June 14, 2004, and advising applicant that page 85 of the specification appeared to have been omitted. The notice set a non-extendable period for reply two-months from its mailing date.

In response, on December 21, 2004, applicant filed the present petition, a copy of page 85 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of 220 pages of the specification (including claims), among other items.

Upon review of the record, page 85 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited June 14, 2004, included page 85 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 85 of the specification was complete on filing and entitled to the presently accorded filing date of June 14, 2004, with page 85 of the specification as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $130.00 will be refunded, in due course.

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of June 14, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

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APR 17 2008

In re Application of	:	
KODAMA, et al.	:	
Application No. 10/866,054	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q82138**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 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 February 25, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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HOFFMAN, WASSON & GITLER, P.C.
SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON VA 2220

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OFFICE OF PETITIONS

In re Application of	:	
Lin, Kao, and and Lin	:	
Application No. 10/866,083	:	DECISION REFUSING STATUS
Filed: 14 June, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. A-9126.PET/eb	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 5 October, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Hsu-Pin Kao, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of Chia-Chien Hsu, that a copy of the above-identified application was sent to the non-signing inventor. The non-signing inventor, however, has failed to sign and return the declaration naming him as a joint inventor along with Chun-Hsu Lin and Ching-Hui Lin.

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 in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to Technology Center 2800 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Heinz Uragg	: DECISION ON REQUEST FOR
Patent Number	: 7569585	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NOV 15 2007

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

In re Application of	:
Heinz Uragg et al	:
Serial No.: 10/866,099	: PETITION DECISION
Filed: June 14, 2004	:
Attorney Docket No.: 029310.55029US	:

This is in response to the petition under 37 CFR 1.144, filed October 19, 2007, 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 14, 2004, and contained claims 1-37. In a first Office action, mailed January 12, 2007, the examiner set forth a restriction requirement, as follows:

Group I – Claims 1-12, drawn to a pharmaceutical formulation of general formula I;
Group II – Claims 13-15, drawn to a method of treating a condition including pain using the compositions of Group I;
Group III – Claims 16-24, drawn to a pharmaceutical formulation of general formula I;
Group IV, Claims 25-27, drawn to a method of treating a condition including pain using the composition of Group III;
Group V – Claims 328-34, drawn to compounds of Formula III; and
Group VI – Claims 35-37, drawn to a process for producing the compound of Formula III.

The examiner reasoned that the inventions were unrelated and distinct since the claims of the Groups are drawn to a methods of use and compositions. The examiner argued that search of all inventions would be an undue burden on the Office. The examiner advised of rejoinder of method claims with elected product claims if the product claims were found allowable.

Applicants replied on January 30, 2007, canceling claims 1-15, and electing Group V. Applicants partially traversed the restriction requirement requesting rejoinder of method of

making claims with the product claims. Applicants also requested rejoinder of Group III and Group V since Group III embraces Group V.

The examiner mailed a new Office action to applicants on April 19, 2007, acknowledging the election of Group V. In view of applicants' arguments, the examiner rejoined Groups III and V, but maintained Groups IV and VI as withdrawn since no product claims were found allowable. Claims 16-24 and 28-34 were rejected under 35 U.S.C. 112, second paragraph, as indefinite for various reasons. Claims 16-23 were rejected under 35 U.S.C. 102(b) as anticipated by Takahashi et al. It appears claims 32-34 may have also been included in this rejection. Claims 16-24 and 28-34 were rejected under 35 U.S.C. 103(a) as unpatentable over Flick et al. Claims 24 and 28-34 were rejected under 35 U.S.C. 103(a) as unpatentable over Takahashi et al.

Applicant filed an amendment and this petition on October 19, 2007.

DISCUSSION

Applicants' petition is directed only to the restriction between Groups III and V (being examined together) and the respective method of use or making claims, Groups IV and VI. The examiner has indicated that upon determination that the product claims are allowable, the method of use claims will be rejoined and examined fully. This is in accordance with the decision of In re Ochiai. Applicants' reason for petitioning for rejoinder at this time revolves around the reasons advanced by the examiner for requiring restriction, as follows:

> In the instant case the process of using the product as claimed can be practiced with another materially different product. For example, there are several well-known drugs used to treat pain, including aspirin.

This reasoning was used with respect to all related product and method of use groups. Applicants argue that the examiner has not provided a proper reason when referring to the use of aspirin for pain treatment since aspirin is not included within the scope of compounds claimed. That is, according to applicants, the process, as claimed, requires use of one of the compounds encompassed within the scope of the product claims since the method claims depend thereon.

Applicants' arguments have been carefully considered, however are unpersuasive. The examiner has given a reasonable reason for requiring restriction and nothing more is required. It is further noted that the claims of the different groups are directed to two different statutory classes of invention and, as such, are considered to be separate and distinct inventions. The compound, per se, may be patentable without the method of use being patentable. In like manner the method of use may be patentable but the compound itself not be patentable because it has previously been patented. However, in the instance where a new compound is found to be allowable, a method of use or making which includes all of the limitations of the compound may be rejoined with the allowable compound and examined fully for patentability. Additional uses discovered later, however, may be separately patented which supports the concept that compounds and their methods of use are different statutory classes of invention and separately patentable. Herein the examiner has indicated rejoinder would be effected upon determination of allowability of a product claim which is proper irrespective of the reasons for restriction set forth. No product has been determined to be allowable at this time.

DECISION

The petition is **DENIED.**

The application will be forwarded to the examiner for consideration of applicant's reply filed October 19, 2007, 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.

John LeGuyader,
Director, Technology Center 1600

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APR 11 2008

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J.D. Evans
CROWELL & MORING
INTELLECTUAL PROPEOTY GROUP
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WASHINGTON D.C. 20044-4300

In re Application of	:
Heinz Uragg et al	:Decision on Petition
Serial No.: 10/866,099	:
Filed : 14 June 2004	:
Attorney Docket No.: 02931055029US	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 15 January 2008 requesting reconsideration of the Petition decision mailed 16 November 2007.

BACKGROUND AND DISCUSSION

This application is filed under 35 USC 111(a) and, as such, is subject to restriction requirement per MPEP Chapter 800. A more detailed review of the file history may be found in the first petition decision.

In brief, Claims 16-37 are pending. Process Claims 25-27 and 35-37 are withdrawn from consideration as being directed to non-elected inventions. Product Groups III and V have been rejoined by the examiner. Product Claims 16-24 and 28-34 were elected and have been examined on the merits.

The file history and renewed petition have been carefully considered.

The renewed petition requests withdrawal of the restriction required between the product and method of use claims.

MPEP 806.05(f) sets forth two possible tests for distinction between products and processes of use:

(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 that

product.

The renewed petition correctly points out that the method as claimed requires the product. For this reason, distinction cannot be established or maintained using the examiner's rationale.

However, upon review of the specification, distinction can be established using the second test. The product as claimed can be used in a materially different method. As evidenced by page 15, first full paragraph of the specification, the product may be used to treat a wide variety of diseases, such as pain, alcohol dependency, emesis, inflammation, depression, etc.

> The pharmaceutical preparations according to the invention are particularly suitable for the treatment of pain, as an antiemetic and/or a nootropic (neurotropic), for the treatment of cardiovascular diseases, urinary incontinence, diarrhea, pruritus, dependency on alcohol and/or drugs and/or medicines, and/or inflammation, for the treatment of depression, to increase vigilance and/or libido.

This list of diseases and disorders are materially different in that they are not linked in terms of their patient populations, etiology, symptoms, clinical presentation, prognosis or other therapeutic treatments. For this reason, the product and process inventions are distinct.

DECISION

The renewed petition filed under 37 CFR 1.144 on 15 January 2008 is **DENIED**.

The application will be forwarded to the examiner to consider the papers filed 19 October 2007 and to prepare an Office action consistent with this petition decision.

Any request for reconsideration must be filed with TWO MONTHS of the mail date of this action.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

John LeGuyader
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/866,099	06/14/2004	Heinz Uragg	029310.55029US	7967

23911 7590 08/12/2008
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
OLSON, ERIC	

ART UNIT	PAPER NUMBER
1623	

MAIL DATE	DELIVERY MODE
08/12/2008	PAPER

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

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

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AUG 12 2008

In re Application of	:
URAGG et al	:Decision on Petition
Serial No.: 10/866,099	:
Filed : 14 June 2004	:
Attorney Docket No.:02931055029US	:

This letter is in response to the first and second Renewed Petitions under 37 C.F.R. 1.144 filed on 15 January 2008 and 11 June 2008, respectively, requesting reconsideration of the petition decision mailed 11 April 2008. The delay in acting upon these petitions is regretted.

BACKGROUND

A summary of the background may be found in the first petition decision.

On 15 January 2008, a first request for reconsideration of the first petition decision was filed.

On 11 June 2008, a second request for reconsideration of the first petition decision was filed.

On 28 July 2008, a response to the Office action was filed.

DISCUSSION

The file history and petition have been considered carefully.

The examiner has required restriction between a product and a process of using the product. MPEP 806.05(h) provides for guidance in this situation. Product and process of using 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 that product.

In the instant case, the examiner relied upon the first test to establish distinction, by arguing that the process can be practiced by another materially different product, such as aspirin.

Applicants correctly argue that distinction is to be determined by the inventions ***as claimed***. Two representative process claims are reproduced below.

> **25. (withdrawn) A method of treating a condition selected from the group consisting of pain, emesis, neurotropic conditions, cardiovascular diseases, urinary incontinence, diarrhea, pruritus, alcohol or drug dependency, inflammation, depression, decreased vigilance, and depressed libido; said method comprising administering to a patient in need thereof a pharmaceutically effective amount of a preparation according to claim 16.**
>
> **26. (withdrawn) A method of treating pain, said method comprising administering to a patient in need thereof an effective pain alleviating amount of a preparation according to claim 16.**

In the petitions filed on 15 January 2008 and 28 July 2008, applicants argue that the claimed products have all been shown to be noradrenaline re-uptake inhibitors which improve neurotransmission in the central nervous system. The petitions argue that neurotransmission effects are implicated in each of the various disorders and noradrenaline re-uptake inhibitors have been found to be useful in the treatment of each of the various disorders.

This argument is not persuasive for the following reasons. The arguments are not commensurate with the invention, as claimed. The product claims are not limited to compounds that have the property of being noradrenaline re-uptake inhibitors which improve neurotransmission in the central nervous system. Nor are the process claims limited to methods of treating disorders which are necessarily cased by abberations in noradrenaline re-uptake inhibitors or are required to be treated by neurotransmission in the central nervous system. Depression, for example, may be caused by external events, such as a death in the family. Seasonally acquired depression may be treated by increased amounts of light during the winter months. Diarrhea which may be caused by food poisoning and may be treated by over the counter remedies which do not require the preparation of claim 16. Finally, the preparation of claim 16 may be used for materially different methods, as a being used as reagents in the production of other chemical molecules, or being used an an immunogen to produce antibodies that bind to epitopes found on the chemical structures or used as controls for inhibitor screening methods. For these reasons, the products of group I and the processes of group II are distinct.

It is noted that the examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. 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. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). 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 require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The renewed petitions filed under 37 CFR 1.144 on 15 January 2008 and 11 June 2008 are **DENIED**.

Any request for reconsideration should be submitted within **TWO MONTHS** of the mail date of this decision.

The application will be forwarded to the examiner to consider the papers filed on 28 July 2008. Should all the product claims become in condition for allowance, the examiner will consider rejoinder if all the process claims depend from or otherwise require all the limitations of the allowable product claims, per MPEP 821.04 and 821.04(b).

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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JUL 21 2006

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WASHINGTON DC 20044-4300

In re Application of	:
Heinz Uragg et al	:
Serial No.: 10/866,101	: PETITION DECISION
Filed: June 14, 2004	:
Attorney Docket No.: 029310.55027	:

This is in response to the petition under 37 CFR 1.144, filed March 27, 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 14, 2004, and contained claims 1-54. In a first Office action, mailed January 4, 2005, the examiner required restriction between the inventions claimed, as follows:

> Group I – Claims 1-45 and 50, drawn to compounds and compositions;
> Group II – Claims 46 (both) and 49 drawn to a first process of making the compounds;
> Group III – Claims 46 and 47-49 drawn to a second process of making the compounds;
> Group IV – Claims 46 and 49, drawn to a third process of making the compounds; and
> Group V – Claims 51-54, drawn to multiple uses of the compounds.

An election of species was also required for Groups I-IV and a single disclosed use for Group V, if elected.

The examiner reasoned that the compounds and methods were separate and distinct inventions based on the various methods of making the product and the various methods of use. Possible rejoinder of a method with allowable product claims was also set forth.

Applicants replied on February 1, 2005, making minor amendments to the claims, eliminating duplicate claim 46, and electing the compounds of Group I without traverse and a species. Applicants reserved the right to ask for rejoinder at a later time.

The examiner mailed a new Office action to applicants on April 8, 2005, acknowledging the election of Group I and the species without traverse. The examiner then further restricted the

compounds of elected Group I according to whether R^1 and R^2 form a ring or not, designating the Groups as IA and IB. The examiner then acted on Group IA based on the identified species as not being a ring forming species. Claims 1-20, 27-28, 33-34, 39-40 and 50 were rejected under 35 U.S.C. 112, second paragraph as indefinite. Claims 2, 8, 10-14, 16-17, 18-20, 27-28, 33-34, 39-40 and 50 were objected to as failing to further limit the claims from which they depend. Claims 1, 4, 6-7 and 50 were rejected under 35 U.S.C. 102(b) as anticipated by Cazin and claim 5 was rejected under 35 U.S.C. 103(a) as unpatentable over Cazin. Claims 1-7, 9-17 and 50 were further rejected under 35 U.S.C. 103(a) as unpatentable over Ohtaka in view of House. Claims 1-20, 27-28, 33-34, 39-40 and 50 were also rejected for Obvious Double Patenting over SN 10/806,100 and under 35 U.S.C. 102(a) over Uragg (WO'369) the published counterpart of SN 10/806,100.

Applicants replied on September 8, 2005, making further amendments to the claims in response to the rejection under 35 U.S.C. 112, second paragraph. Applicants traversed the further restriction requirement of the examiner on the basis of the provisions set forth in M.P.E.P. 803.02 and the court decision cited therein. Applicants also replied to each of the rejections of record and filed a terminal disclaimer.

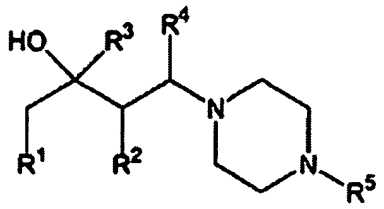
The examiner mailed a Final Office action to applicants on November 25, 2005, in which the restriction requirement of the previous Office action was maintained and made Final for the reasons set forth therein. Claims 1-8, 17, 50 and 56 were rejected under 35 U.S.C. 112, second paragraph as indefinite for many of the same reasons as before. Claims 1-20, 27-28, 33-34, 39-40, 50 and 56 were rejected under 35 U.S.C. 112, first paragraph, as lacking enablement. The objection to claims 2, 10, 16, 27-28, 33-34, 39-40 and 45 was maintained. Claims 1-7, 9-17 and 50 were again rejected as unpatentable over Ohtaka in view of House. Claims 1-20, 27-28, 33-34, 39-40 and 50 were again rejected under 35 U.S.C. 102(a) and claim 56 under 35 U.S.C. 103(a) as anticipated or unpatentable over Uragg (WO'369).

This petition was filed on March 27, 2006, and traverses the finality of the restriction requirement as in error. Applicants concurrently replied to the Office action, but have not filed a Notice of Appeal.

DISCUSSION

Applicants' petition is directed only to the second restriction requirement set forth by the examiner in the first action on the merits of the application, arguing that further restriction of Group I is improper.

Applicants' claims are directed to compounds of formula I:



I

The original restriction requirement included all compounds of Formula I in a single Group which Group was elected. Upon further review, following the election and identification of a single species, the examiner imposed a further restriction requirement based on whether R^1 and R^2 form a ring or not and examined only those compounds which did not form a ring based on the identified species not having a ring.

Applicants argue that such further restriction is improper under M.P.E.P. 803.02 guidelines based on *In re Weber* and *In re Harnish* and other court decisions. M.P.E.P. 803.02 states that a proper Markush group exists where all of the compounds share a common utility and share a substantial structural feature. Applicants aver that all of the compounds claimed have analgesic properties and, as can be seen above, have a substantial structural feature in common. In rebuttal the examiner argues that the piperazine ring attached to the alkanol chain is clearly not solely responsible for the (analgesic) activity and this is evidenced by test data shown in the specification. However, it is agreed with applicants that the amount of analgesic activity is not the criterion set forth, but that at least some analgesic activity exist with each compound within the grouping which is evidence that the common structure is responsible for or tied to that activity. It goes almost without saying that analgesic activity will vary from compound to compound and may vary widely. However, that does not mean that the common activity does not exist, only that some compounds exhibit it to a greater degree than others.

Applicants further argue that the requirement is improper because it focuses on division based on substituent groups and not the compound as a whole. Although a review of the individually named species in the specification shows that they are all named as substituted alkanols or cycloalkanols, they could just as easily be named as substituted piperazines. Were they so named the commonality of structure would perhaps be more apparent. In no instance is a fused ring system formed. Here the piperazine ring is always present, but the cycloalkanol ring is optional and thus not a part of the common structure on which the Markush grouping is based. Applicants are, therefore, correct in their argument.

DECISION

The petition is **GRANTED.** The restriction requirement of April 8, 2005, is withdrawn.

In view of this decision the finality of the last Office action is withdrawn and the application is being forwarded to the examiner for consideration of all claims constituting Group I. Applicants' reply to the Office action of November 25, 2005, will be entered and considered a reply to a non-Final Office action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JJGJR.: 08-07

Paper No: __

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OFFICE OF PETITIONS

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

In re Application of :
Chang :
Application No.: 10/866,145 :
Filing Date: 14 June, 2004 :
Attorney Docket No. 3093/60 :

DECISION

This is a decision on the petition filed on 29 November, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

Petitioner's attention is drawn to the provisions of MPEP.§601.03.[2]

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[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

[2] The Commentary at MPEP §601.03 provides in pertinent part:

***

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

NOTE: Petitioner may wish to submit a supplemental Application Data Sheet (ADS) compliant with the Rules of Practice, including updates consistent with the provisions of 37 C.F. R.§ 1.33.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 8 February, 2006, with reply due absent an extension of time on or before 8 April, 2006;

- the application went abandoned by operation of law after midnight on 8 April, 2006;

- the Office mailed the Notice of Abandonment on 9 November, 2006;

- on 29 November, 2006, Petitioner filed the instant petition, and averred therein, *inter alia*, that he did not receive the Office action in question because, he asserted, the Office mailed papers to the incorrect address, and cites as authority a provision of the MPEP–Petitioner does appear,however, to mis-appreciate, at least in part, the guidance of the Commentary provided by the MPEP and that his lack of caution initiated events which resulted in the Notice of Abandonment being mailed herein, for in this case Petitioner's filing of the oath/declaration expressly stated:

> Direct all correspondence to:
> **DENNISON SCHULZ & DOUGHERTY**
> 612 Crystal Square 4
> 1745 Jefferson Davis Highway
> Arlington, VA 22202-3417 (Emphasis the original)

such that the confusion and any associated error was instigated by Petitioner.

---

is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).

***

Petitioner acknowledges that despite the apparent earlier physical change of address, he did not Notice the Office as to the change until more than three months after the non-final Office action in question was mailed.

Whether the events herein occurred in whole or part because Petitioner:

- waited until after he changed addresses and Customer Numbers to associate that number with the instant application, which in turn prevented Petitioner from becoming aware of his error as to multiple address designations on filing, or

- expressly designated a correspondence address (set forth in the oath/declaration), and the Office followed Petitioner's that designation from the oath/declaration rather than the Customer Number set forth in the Application Transmittal (which then sets forth a third address used by Petitioner in this application across the 29 months in which these events transpired,

ultimately, the Notice of Abandonment appears to have been mailed improvidently.

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

---

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

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

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

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

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:

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

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket

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

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

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

> records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing required, as described above.

CONCLUSION

Because it appears that Petitioner has satisfied in part the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**.

The instant application is released to Technology Center 3700 for further processing in due course, and the Examiner is free to review the oath/declaration and ADS to ensure their compliance with the Rules of Practice.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEFAN KIRCHANSKI
VENABLE LLP 2049 CENTURY PARK EAST
21ST FLOOR
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of :
Frank Chang :
Application No. 10/866,145 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. **3093/60** :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2009. Accordingly, the date of abandonment of this application is April 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100621

DATE : June 21, 2010

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7501884

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Lincoln Donovan/ **Art Unit** 2816

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William E. Vaughan
Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago IL 60690

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OFFICE OF PETITIONS

In re Application of :
Adachi, et al. :
Application No. 10/866,214 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 112857-496 :
For: BATTERY :

This is a decision on the petition under 37 CFR 1.53(e), filed October 7, 2004 (certificate of mailing date October 4, 2004), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed August 3, 2004, insofar as it alleges that page 44 of the specification was omitted upon filing.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on June 10, 2004. On August 3, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 44 of the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that page 44 be accorded a filing date of June 10, 2004 on the basis that 51 pages of specification, including page 44, were received in the Patent and Trademark Office (PTO) on June 10, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 10, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 51 pages of specification. A review of the application file reveals that there are 50 pages present. Page 44 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 44, was filed on June 10, 2004. MPEP 503.

Unfortunately, page 44 of the specification cannot be located. Petitioners are requested to submit another copy of page 44 of the specification. The application cannot undergo further processing without a copy of page 44 of the specification.

The application file will be retained in the Office of Petitions until the omitted page is submitted. Once the omitted page is submitted and a reconsideration petition is granted, the $130.00 petition fee submitted with the instant petition will be credited to petitioners' 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
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 pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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William E. Vaughan
Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago IL 60690

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Adachi, et al. :
Application No. 10/866,214 : ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. 112857-496 :
For: BATTERY :

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed December 6, 2004 (certificate of mailing date December 3, 2004), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed August 3, 2004, insofar as it alleges that page 44 of the specification was omitted upon filing.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on June 10, 2004. On August 3, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 44 of the specification appeared to have been omitted.

Petitioners request that page 44 be accorded a filing date of June 10, 2004 on the basis that 51 pages of specification, including page 44, were received in the Patent and Trademark Office (PTO) on June 10, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 10, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 51 pages of specification. A review of the application file reveals that there are 50 pages present. Page 44 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 44, was filed on June 10, 2004. MPEP 503.

Regarding finances, petitioners were charged a $130.00 petition fee on October 8, 2004 and a $400.00 petition fee on December 7, 2004. Pursuant to petitioners' authorization, these petition fees will be credited to petitioners' deposit account, no. 02-1818.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **June 10, 2004**, using the copy of page 44 supplied with the reconsideration petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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	: Kazuhiro Sukenari	: DECISION ON REQUEST FOR
Patent Number	: 7576768	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,215	: 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 **1469** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of :
Paul A. KWIRKOSKI :
Application No. 10/866,219 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. 577722000100 : 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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP, has been revoked by the assignee of the patent application on September 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN G. POSA, ESQ.
GIFFORD, KRASS, SPRINKLE,
ANDERSON, & CITKOWSKI, P.C.
303 DETROIT STREET, SUITE 300
ANN ARBOR, MI 48104-1144

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jorg C. Gerlach
2634 South 18th Street Extension
Pittsburgh PA 15210

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of
Jorg C. Gerlach
Application No. 10/866221
Filing or 371(c) Date: 06/12/2004
Title of Invention:
BIOREACTOR FOR CELL SELF-ASSEMBLY IN FORM OF AN ORGAN COPY; PROCEDURES FOR THE PRODUCTION AND THE APPLICATION OF CELL CULTURE, DIFFERENTIATION, MAINTENANCE, PROLIFERATION AND/OR USE OF CELLS

DECISION
ON PETITION

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed December 3, 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 and properly reply to the Office communication, mailed January 31, 2007. The Office communication set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed an Amendment in response to the Office communication on February 16, 2007, which included an Amendment. The amendment was again an unacceptable reply[1]. Applicant

[1] The Examiner mailed a Requirement for Restriction/Election on February 10, 2006, and conducted an interview summary with Applicant on March 8, 2006. Applicant filed a response to the Requirement for Restriction/Election, on March 27, 2006, and a Supplemental Response and Extension of Time on April 24, 2006. The response was not a complete reply. Applicant was so notified in an Office communication, mailed July 11, 2006. Applicant filed a reply/amendment on August 22nd, and 23rd, 2006; however, the amendment was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed October 3, 2006. Applicant filed a response to the latest Notice of Non-Compliant Amendment on November 2, 2006; however, again the response fully responsive to the

was so informed in a Notice mailed April 25, 2007. Applicant filed a subsequent amendment on May 29, 2007; however, the period for filing a reply to the Office communication had expired, and an extension of time was required. No complete and proper reply having been received, the application became abandoned on March 1, 2007.

A Notice of Abandonment was mailed August 29, 2007.

The present petition

Applicant files the instant petition and petition fee in the amount of $750,00, and an amendment in response to the Notice.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph 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 Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (**2**), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unintentionally delayed response to an Office communication increased to $770.00 for a small entity, effective September 30, 2007. Applicant must submit the balance of the petition fee before the petition may be considered. Applicant is also advised to monitor the current fee schedule at www.uspto.gov/main/howtofees.htm.

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

Restriction/Election mailed on February 10, 2006. Applicant was so notified in the Office communication mailed January 31, 2007, and the eventual failure to timely and properly reply to the January 31, 2007 Office communication is what led to the present abandonment of the application.

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

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

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

Jorg C. Gerlach
2634 South 18th Street Extension
Pittsburgh PA 15210

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Jorg C. Gerlach :
Application No. 10/866221 :
Filing or 371(c) Date: 06/12/2004 :
Title of Invention: :
BIOREACTOR FOR CELL SELF-ASSEMBLY IN FORM: :
OF AN ORGAN COPY; PROCEDURES FOR THE :
PRODUCTION AND THE APPLICATION OF CELL :
CULTURE, DIFFERENTIATION, MAINTENANCE, :
PROLIFERATION AND/OR USE OF CELLS :

DECISION
ON PETITION

This is a decision on the renewed "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed February 27, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed January 31, 2007. The Office communication set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed an Amendment in response to the Office communication on February 16, 2007, which included an Amendment. The amendment was again an unacceptable reply[1]. Applicant was so informed in a Notice mailed April 25, 2007. Applicant filed a subsequent amendment on May 29, 2007; however, the period for filing a reply to the Office communication had expired,

[1] The Examiner mailed a Requirement for Restriction/Election on February 10, 2006, and conducted an interview summary with Applicant on March 8, 2006. Applicant filed a response to the Requirement for Restriction/Election, on March 27, 2006, and a Supplemental Response and Extension of Time on April 24, 2006. The response was not a complete reply. Applicant was so notified in an Office communication, mailed July 11, 2006. Applicant filed a reply/amendment on August 22nd, and 23rd, 2006; however, the amendment was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed October 3, 2006. Applicant filed a response to the latest Notice of Non-Compliant Amendment on November 2, 2006; however, again the response fully responsive to the Restriction/Election mailed on February 10, 2006. Applicant was so notified in the Office communication mailed January 31, 2007, and the eventual failure to timely and properly reply to the January 31, 2007 Office communication is what led to the present abandonment of the application.

and an extension of time was required. No complete and proper reply having been received, the application became abandoned on March 1, 2007.

A Notice of Abandonment was mailed August 29, 2007.

The December 3, 2007 petition

Applicant filed a petition on December 3, 2007, which was dismissed in a Decision mailed February 7, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The present renewed petition

Applicant files the present petition and balance of the petition fee due, 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 (filed December 3, 2003); (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.

This application is being forwarded to Technology Center Art Unit 1651 for processing of the response, and for further examination 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
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GLOBAL PATENT GROUP
P.O. BOX 38100
ST. LOUIS MO 63138

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OFFICE OF PETITIONS

In re Application of	:	
Nichols et al.	:	
Application No. 10/886222	:	DECISION
Filing or 371(c) Date: 07/07/2004	:	ON PETITION
Attorney Docket Number KEM0001-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2009, 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.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 22, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 23, 2006. A Notice of Abandonment was mailed July 26, 2006.

The present petition

Applicant files the present petition and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

Applicable Law, Rules and MPEP

A grantable petition pursuant to this paragraph 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 Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), additional information is required. The MPEP provides:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; and (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

The MPEP also notes:

> 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).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:
(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.
Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application

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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Analysis

Here, Applicant states 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;" however, Applicant has not provided either: (A) the date that the applicant first became aware of the abandonment of the Application, or (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.

Further to this, 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.

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary 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, and that the abandonment of the application was unintentional.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 14 2005

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

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

In re application of : **DECISION ON PETITION**
Michael E. Heene, et al : **TO MAKE SPECIAL**
Application No. 10/866,228 : **(ACCELERATED**
Filed: June 10, 2004 : **EXAMINATION)**
For: FACILITATING THE SALE OF AD ITEMS VIA THE INTERNET

This is in response to the renewed petition filed on July 25, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

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

KJD/dcg: 7/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DALE F. REGELMAN
LAW OFFICE OF DALE F. REGELMAN, P.C.
4231 S. FREMONT AVENUE
TUCSON, AZ 85714

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Richard Daiv Van Schoick :
Application No. 10/866,230 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. VAN SCHOICK 04.01 :

This is a decision on the petition, filed March 5, 2008, 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 a Notice of Non-Compliant Amendment mailed May 31, 2007. A Notice of Abandonment was mailed on December 12, 2007. In response, on March 5, 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 $770; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being forwarded to Technology Center Art Unit 3726 for appropriate action by the Examiner in the normal course of business on the reply received March 5, 2008

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

cc: DALE F. REGELMAN
4801 BROADWAY BLVD, SUITE 400
TUCSON, AZ 85711-3609

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOUNTAINHEAD LAW GROUP, PC
900 LAFAYETTE STREET
SUITE 509
SANTA CLARA CA 95050

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OFFICE OF PETITIONS

In re Application of	:	
Vermeulen et al.	:	
Application No. 10/866,232	:	DECISION ON PETITION
Filed: June 10, 2004	:	
Attorney Docket No. 000001-001010US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2626 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
THE CHRYSLER CENTER
666 THIRD AVENUE, 24TH FLOOR
NEW YORK, NY 10017

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of
Griffiths et al.
Application No. 10/866,237
Filed: June 11, 2004
Attorney Docket No. 21465-202

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

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

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. 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 under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application.

The amendment filed July 31, 2007 fails to state the relationship of Application No. 09/464,122, filed December 16, 1999, to the instant application or any intermediate application.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

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[1] stating the relationship of the prior-filed application to the instant application is required. Further, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition.

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

---

[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed 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

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

COPY MAILED
MAR 09 2010

In re Patent No. 7,575,822	
Militsky et al.	DECISION ON REQUEST FOR
Issue Date: August 18, 2009	RECONSIDERATION OF
Application No. 10/866,238	PATENT TERM ADJUSTMENT
Filed: June 14, 2004	AND NOTICE OF INTENT
Attorney Docket No. 079173-0133	TO ISSUE CERTIFICATE OF
Title: Method of Optimizing Operating Efficiency Of Fuel Cells	CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred eighty-eight (888) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred eighty-eight (888) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred eighty-eight (888) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/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 : 7,575,822 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Mitlitsky 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 463 days

Delete the phrase "by 463 days" and insert – by 888 days--

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.
10/866,248	06/14/2004	Yuichi Takemura	2018-888	2008

23117 7590 10/07/2005

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

EXAMINER	
BELLAMY, TAMIKO D	

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 10/07/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of TAKEMURA ET AL.
Appl. No.: 10/866,248
Filed: June 14, 2004
For: KNOCK DETECTION APPARATUS FOR INTERNAL COMBUSTION ENGINE

DECISION ON PETITION
37 CFR 1.48(a)

In view of the papers filed June 5, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Kenji Kasashima as co-inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for correction of Office records to reflect the inventorship as corrected.

Hezron E. Williams, SPE
Patent Examining Technology Center 2800

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

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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NIXON & VANDERHYE
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

JUL 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Okamoto	:	
Application No. 10/866,259	:	NOTICE
Filed: June 14, 2004	:	
Attorney Docket No. 3914-5	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 305-8680.

This matter is being referred to the Office of Initial Patent Examination Division for further processing with an indication that this application is not entitled to small entity status.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED
MAR 01 2010

In re Application of :
Chapman et al. :
Application No. 10/866,270 : LETTER REGARDING
Filed: June 11, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 09991.0012-00000 :

This letter is in response to the "Notice of Possible Error in the Determination of Patent Term Adjustment and Request for Review of Calculation" filed November 17, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED.**

The Office has updated the PALM screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 135 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 17, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 201 days.

Applicants disclose they believe the patent term adjustment indicated in the Determination of Patent Term may be incorrect because the Office failed to enter a 40-day reduction for the Information Disclosure Statement ("IDS") filed August 15, 2007, and failed to enter a 26-day reduction for the IDS filed August 5, 2009.

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Applicants filed an IDS on August 15, 2007, after a reply to an Office action had been filed on July 6, 2007. The record fails to indicate the examiner requested the IDS and the IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d). Therefore, the period of adjustment should have been reduced by 40 days pursuant to 37 C.F.R. § 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, July 6, 2007, and ending on the date the IDS was filed, August 15, 2007.

The Office has entered a 40-day reduction for the IDS filed August 15, 2007.

Applicants filed an IDS on August 5, 2009, after a reply to an Office action had been filed on July 10, 2009. The record fails to indicate the examiner requested the IDS and the IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d). Therefore, the period of adjustment should have been reduced by 26 days pursuant to 37 C.F.R. § 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, July 10, 2009, and ending on the date the IDS was filed, August 5, 2009.

The Office has entered a 26-day reduction for the IDS filed August 5, 2009.

In view of the prior discussion, the patent term adjustment at the time of mailing of the notice of allowance is 135 days, which is 349 days of Office delay reduced by 214 (78 + 14 + 56 + *40* + *26*) days of Applicant delay.

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Friday
Date: 2/19/2010

PALM INTRANET

Time: 18:18:41

PTA Calculations for Application: 10/866270			
Application Filing Date:	06/11/2004	PTO Delay (PTO):	349
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	148
Post-Issue Petitions:	0	Total PTA (days):	135
PTO Delay Adjustment:	-66		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	02/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		26	
102	02/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		40	
88	09/17/2009	MAIL NOTICE OF ALLOWANCE			
87	09/16/2009	ISSUE REVISION COMPLETED			
86	09/16/2009	DOCUMENT VERIFICATION			
85	09/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	09/14/2009	CASE DOCKETED TO EXAMINER IN GAU			
83	09/11/2009	NOTICE OF ALLOWABILITY			
80	08/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	04/14/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	08/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	08/05/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
76	07/30/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
75	07/17/2009	DATE FORWARDED TO EXAMINER			
74	07/10/2009	RESPONSE AFTER NON-FINAL ACTION			
73	04/14/2009	REFERENCE CAPTURE ON IDS			
72	04/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	04/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	04/10/2009	MAIL NON-FINAL REJECTION			
69	03/26/2009	NON-FINAL REJECTION			

68	02/23/2009	DATE FORWARDED TO EXAMINER			
67	02/20/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
66	02/23/2009	DATE FORWARDED TO EXAMINER			
65	02/20/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
64	02/23/2009	DISPOSAL FOR A RCE / CPA / R129			
63	02/20/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	11/20/2008	MAIL FINAL REJECTION (PTOL - 326)			
61	11/19/2008	FINAL REJECTION			
60	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	57
58	09/16/2008	DATE FORWARDED TO EXAMINER			
57	08/14/2008	RESPONSE AFTER NON-FINAL ACTION			
56	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	05/14/2008	MAIL NON-FINAL REJECTION			
54	05/12/2008	NON-FINAL REJECTION			
53	08/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	01/17/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
51	03/12/2008	DATE FORWARDED TO EXAMINER			
50	01/17/2008	RESPONSE AFTER NON-FINAL ACTION		56	45
49	01/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	08/15/2007	REFERENCE CAPTURE ON IDS			
47	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/22/2007	MAIL NON-FINAL REJECTION			
44	08/21/2007	NON-FINAL REJECTION			
41	07/16/2007	DATE FORWARDED TO EXAMINER			
40	07/06/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	07/16/2007	DATE FORWARDED TO EXAMINER			
38	07/06/2007	REQUEST FOR CONTINUED EXAMINATION			

		(RCE)			
37	07/16/2007	DISPOSAL FOR A RCE / CPA / R129			
36	07/06/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	04/06/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	04/02/2007	FINAL REJECTION			
33	01/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/26/2007	REFERENCE CAPTURE ON IDS			
31.7	01/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	29
31	01/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	01/29/2007	DATE FORWARDED TO EXAMINER			
29	01/12/2007	RESPONSE AFTER NON-FINAL ACTION		78	23
28	01/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	01/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	11/13/2006	CORRESPONDENCE ADDRESS CHANGE			
25	11/13/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
24	09/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	07/26/2006	MAIL NON-FINAL REJECTION	349		-1
22	07/21/2006	NON-FINAL REJECTION			
21	04/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	06/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
15.7	04/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/21/2004	APPLICATION RETURN FROM OIPE			
13	10/21/2004	APPLICATION IS NOW COMPLETE			
12	10/21/2004	APPLICATION RETURN TO OIPE			
11	10/21/2004	APPLICATION RETURN FROM OIPE			
10	10/21/2004	APPLICATION RETURN TO OIPE			

9	10/21/2004	APPLICATION DISPATCHED FROM OIPE			
8	10/21/2004	APPLICATION IS NOW COMPLETE			
7	10/04/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	08/03/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/11/2004	PGPUBS NONPUB REQUEST			
4	07/22/2004	CLEARED BY OIPE CSR			
3	07/22/2004	CASE CLASSIFIED BY OIPE			
2	06/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/11/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 28 2007

JOERG C. GERLACH MD, PHD
2634 SOUTH 18TH STREET EXTENSION
PITTSBURGH PA 15201

In re Application of	:
Jeorg E. Gerlach	:
Serial No.: 10/866,273	: PETITION DECISION
Filed: June 12, 2004	:
Attorney Docket No.:	:

This is in response to the letter, filed August 15, 2007, which is being treated as an informal petition under 37 CFR 1.181, requesting withdrawal of abandonment.

BACKGROUND

This application was filed under 35 U.S.C. 111 on June 12, 2004, and accepted for examination and contained claims 1-86. On February 27, 2006, the examiner mailed applicant a restriction requirement dividing the claims into five groups. That requirement is not petitioned and is not addressed herein. The examiner also commented that the claims, as presented, included numerous formatting errors including that a multiple dependent claim may not depend form another multiple dependent claim.

Applicant replied to the restriction requirement on March 27, 2006, and filed a supplemental amendment on April 24, 2006, attempting to correct the format and style of the claims. A Notice of Incomplete Reply was mailed to applicant on July 17, 2006, indicating that applicant's reply to the restriction requirement was incomplete and requiring a completion of the reply. Applicant filed a complete reply on August 22, 2006 and an additional supplemental amendment on August 23, 2006.

On October 11, 2006, a Notice of Non-Compliant Amend was mailed to applicant setting forth the errors in last amendment and giving brief instructions as to how to correct the errors. Applicant filed a new amendment to the claims on November 2, 2006, with proper claim identifiers, etc. However, the claims included portions of the claims which were previously deleted by strikethrough and which was improper in view of the previous amendments. In view of this a second Notice of Non-Compliant Amendment was mailed to applicant on December 20, 2006, setting forth the amendment errors. Applicant conducted a telephonic interview with the examiner on February 2, 2007, seeking further guidance in providing a proper amendment.

According to Office records, no further communication from applicant has been received and a Notice of Abandonment was mailed to applicant on August 3, 2007. Applicant then filed this letter seeing Withdrawal of Abandonment and presenting a new amendment to the claims.

DISCUSSION

From the above history it is clear that applicant is unfamiliar with prosecution of an application before the Office. In view of that, applicant is strongly urged to consult with a registered patent attorney or agent, a listing of which can be found on the Office website. This advice is offered so that applicant may have the opportunity to preserve potential valuable patent rights and to advance prosecution of this application in a manner which will bring it to a rapid close in the best interests of all.

It is noted that each of applicant's amendments to the claims contains numerous deficiencies (which consultation with a patent attorney or agent could readily rectify).

Applicant indicates that a paper and fee were filed in the Office on or about February 12, 2007. The Office can find no record of receipt of any paper or fee received on that day or any day thereafter. For this reason applicant is considered to have abandoned the application by failing to timely reply to the outstanding Office action, the Notice of Non-Compliant Amendment.

In order to restore this application to pending status applicant will need to file a Petition under 37 CFR 1.181 directed to withdrawing the abandonment and presenting factual evidence of the filing of a timely reply as evidenced by mail receipts, etc., in support therof. Instructions for filing such a petition can be found in the M.P.E.P., section 711.03(c), which provides guidance for filing various types of petitions to revive an application or withdraw an improper abandonment. A patent attorney or agent can provide invaluable assistance with this.

It is also noted that the amendment presented with this letter does not comply with 37 CFR 1.121, the rule for amending patent claims. Thus a proper amendment must also be presented with any petition to ensure revival of this application.

The petition is **DISMISSED**.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jorg C. Gerlach
2634 South 18th Street Extension
Pittsburgh PA 15210

COPY MAILED

FEB 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Jorg C. Gerlach :
Application No. 10/866273 : DECISION
Filing or 371(c) Date: 06/12/2004 : ON PETITION
Title of Invention: :
METHOD TO MANUFACTURE A CELL :
PREPARATION AND SUCH MANUFACTURED CELL :
PREPARATIONS :

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed December 3, 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 and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed December 20, 2006. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed correspondence on August 15, 2007, which included an Amendment. The correspondence was treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, and dismissed in a Decision mailed September 28, 2007[1]. The Decision dismissing the petition noted that the Amendment failed to comply with 37 CFR 1.121.

The present petition

Applicant files the instant petition and amendment in response to the Notice.

[1] The Decision noted the myriad attempts by Applicant to file a complete and proper reply to the Requirement for Restriction/Election, mailed February 27, 2006, and Applicant's lack of familiarity with the prosecution of an application before this Office.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph 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 Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (**2**), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unintentionally delayed response to an Office communication increased to $770.00 for a small entity, effective September 30, 2007. Applicant must submit the balance of the petition fee before the petition may be considered. Applicant is also advised to monitor the current fee schedule at www.uspto.gov/main/howtofees.htm.

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 decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

Applicant: Kotlyar et al.
Appl. No.: 10/866,275
Filing Date: June 11, 2004
Title: STABILIZER COMPOSITION, PRODUCTION AND USE THEREOF
Attorney Docket No.: 038827.279000
Pub. No.: US 2005/0040367 A1
Pub. Date: February 24, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on April 22, 2005, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains numerous material errors in the specification.

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

The request for corrected publication cannot be granted because the request does give an indication where the correct text for the material errors appears in the application.

Applicant is given 2 months to supply the required the information and submit a renewed request for republication.

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

[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).

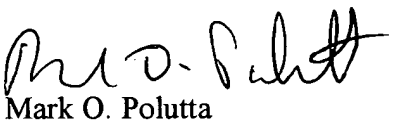
the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication 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 O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas Pellegrino
10596 High Beach Ct.
New Market, MD 21774

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Patrick Pellegrino :
Application No. 10/866,278 :
Filed: June 14, 2004 :
For: VIRTUAL "WEB RADIO" THAT :
ALLOWS FOR THE FREE ON-DEMAND :
STREAMING OF INDIVIDUAL FILES OF :
SONGS, FILMS, AND OTHER MEDIA IN :
DIGITAL FORMAT THAT WOULD :
OTHERWISE NEED TO BE PURCHAED, :
WHICH DEPENDS UPON REVENUE :
EARNED FROM ADVERTISERS WHO :
PAY TO HAVE THEIR ADVERTISEMENTS :
APPENDED TO THE FRONT OF FILES :
STREAMS AVAILABLE ON THE :
VIRTUAL 'WEB RADIO" :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

This application became abandoned for failure to respond in a proper and timely manner to the Notice to File Corrected Application Papers mailed on August 3, 2004, which set a two-month extendable period to reply. Accordingly, this application became abandoned on October 4, 2004. A Notice of Abandonment was mailed on April 21, 2005.

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

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

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items listed below should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC. (See 37 CFR 1.52(e)(5) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX". (See MPEP § 608.05(a).
(e) BACKGROUND OF THE INVENTION.
(1) Field of the Invention.
(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(f) BRIEF SUMMARY OF THE INVENTION.
(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(h) DETAILED DESCRIPTION OF THE INVENTION.
(i) CLAIM OR CLAIMS (commencing on a separate sheet).
(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(k) SEQUENCE LISTING. (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid

sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc.)

Additionally, the pages of the specification (preferably in the order listed above) must be numbered consecutively, starting with 1, **the numbers being centrally located** above or preferably below, the text. See 37 CFR 1.52(b)(5). Furthermore, the abstract must commence on a separate sheet and any sheet including an abstract or portion of an abstract may not contain any other parts of the application or other material. See MPEP 608.01

The sections of the specification submitted with the present petition are not in the preferred order listed above. Petitioner numbered the first page of the section of claims as page 1; however, the claims should commence on a separate sheet after the section entitled "Detailed description of the invention." Moreover, the page numbers are not centrally located below the text. Lastly, the abstract does not commence on a separate sheet without any other parts of the application. Instead, petitioner included the Title of the Invention on the same sheet as the abstract.

Petitioner must submit a substitute specification, which complies with requirements set forth in the Notice to File Corrected Application Papers in order to revive the present application. If petitioner requires further assistance regarding this matter, he may contact the Inventor's Assistance Center at 1-800-786-9199.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas Pellegrino
25-83 44th Street
Astoria, NY 11103

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of
Thomas Patrick Pellegrino
Application No. 10/866,278
Filed: June 14, 2005
For: Virtual "Web Radio"

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 15, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a proper and timely matter to the Notice to File Corrected Application Papers mailed on August 3, 2004, which set a two-month extendable period to reply. Accordingly, this application became abandoned on October 4, 2004. A Notice of Abandonment was mailed on April 21, 2005.

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

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

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

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As stated in the decision mailed on August 1, 2005, petitioner was required to submit any request for reconsideration of the decision within TWO (2) MONTHS from the mail date of the decision (i.e., by October 1, 2005). The decision further stated that petitioner could file a petition for an extension of time (accompanied by the necessary fee).

With the present petition, petitioner submitted a Express Mail label, No. ED829304699US, showing a date-in of August 11, 2005. During a telephone conversation with the undersigned, petitioner asserted that he mailed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Unfortunately, the USPTO does not have any record of receiving a petition from petitioner on August 11, 2005. On November 15, 2005, petitioner mailed the present renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO. However, petitioner did not submit sufficient documentary evidence that he filed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Therefore, the Office must accept the present petition as being filed on November 11, 2005, unless petitioner can demonstrate otherwise.

Petitioner must submit a "Renewed Petition Under 37 CFR 1.137(b)" within TWO (2) MONTHS from the mail date of this decision. **In addition, petitioner must EITHER: (1) submit a petition for a two-month extension of time with a $225.00 fee (the appropriate form is enclosed) OR (2) submit a copy of the ORIGINAL renewed petition. Express Mail label No. ED829304699US must appear on the copy of the renewed petition AS ORIGINALLY FILED in order to demonstrate that it was timely filed on August 11, 2005.**

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition for Extension of Time (Form PTO/SB/22) and Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas Pellegrino
25-83 44th Street
Astoria, NY 11103

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Patrick Pellegrino :
Application No. 10/866,278 : ON PETITION
Filed: June 14, 2005 :
For: Virtual "Web Radio" :

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

This application became abandoned for failure to respond in a proper and timely matter to the Notice to File Corrected Application Papers mailed on August 3, 2004, which set a two-month extendable period to reply. Accordingly, this application became abandoned on October 4, 2004. A Notice of Abandonment was mailed on April 21, 2005.

On May 17, 2005, petitioner mailed the original petition; however, it was dismissed by the decision of August 1, 2005, for failure to file a proper response to the Notice to File Corrected Application Papers. As stated in the decision mailed on August 1, 2005, petitioner was required to submit any request for reconsideration of the decision within TWO (2) MONTHS from the mail date of the decision (i.e., by October 1, 2005). The decision further stated that petitioner could file a petition for an extension of time (accompanied by the necessary fee).

On November 15, 2005, petitioner filed a renewed petition under 37 CFR 1.137(b). Additionally, petitioner submitted a response to the outstanding Notice and an Express Mail label, No. ED829304699US, showing a date-in of August 11, 2005. During a telephone conversation with the undersigned, petitioner asserted that he mailed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Unfortunately, the USPTO does not have any record of receiving a petition from petitioner on August 11, 2005. Moreover, petitioner did not submit sufficient documentary evidence that he filed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Therefore, the Office accepted the renewed petition as being filed on November 11, 2005, unless petitioner could demonstrate otherwise. Accordingly, the petition was dismissed by the decision of December 6, 2005. The decision notified petitioner that he must submit a "Renewed Petition Under 37 CFR 1.137(b)" within TWO (2) MONTHS from the mail date of the decision. **In addition, petitioner was instructed to EITHER: (1) submit a petition for a two-month extension of time with a $225.00 fee OR (2) submit a copy of the ORIGINAL renewed petition. The decision informed petitioner that Express Mail label No. ED829304699US must**

appear on the copy of the renewed petition AS ORIGINALLY FILED in order to demonstrate that it was timely filed on August 11, 2005.

On January 12, 2006, petitioner submitted this second renewed petition, a request for an extension of time for response within the second month, and an authorization to charge a credit card for the $225.00 fee. Unfortunately, the USPTO records indicate that the credit card was declined. The records further show that the Office of Initial Patent Examination Customer Service called petitioner and left a voicemail message regarding this matter; however, petitioner did not respond. Therefore, the petition is again **dismissed** due to nonpayment of the extension of time fee. Because the credit card was declined, **petitioner must pay an additional $50.00 service fee.**

To revive this application, petitioner must submit a "Renewed Petition Under 37 CFR 1.137(b)" within TWO (2) MONTHS from the mail date of this decision. In addition, petitioner must pay the $225.00 extension of time fee **and** the $50.00 service fee, for **a total amount due of $275.00**. Extensions of time are available under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas Pellegrino
25-83 44th Street
Astoria, NY 11103

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Patrick Pellegrino : DECISION GRANTING PETITION
Application No. 10/866,278 : UNDER 37 CFR 1.137(b)
Filed: June 14, 2005 :
For: Virtual "Web Radio" :

This is a decision on the third renewed petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

This application became abandoned for failure to respond in a proper and timely matter to the Notice to File Corrected Application Papers mailed on August 3, 2004, which set a two-month extendable period to reply. Accordingly, this application became abandoned on October 4, 2004. A Notice of Abandonment was mailed on April 21, 2005.

On May 17, 2005, petitioner mailed the original petition; however, it was dismissed by the decision of August 1, 2005, for failure to file a proper response to the Notice to File Corrected Application Papers. As stated in the decision mailed on August 1, 2005, petitioner was required to submit any request for reconsideration of the decision within TWO (2) MONTHS from the mail date of the decision (i.e., by October 1, 2005). The decision further stated that petitioner could file a petition for an extension of time (accompanied by the necessary fee).

On November 15, 2005, petitioner filed a renewed petition under 37 CFR 1.137(b). Additionally, petitioner submitted a response to the outstanding Notice and an Express Mail label, No. ED829304699US, showing a date-in of August 11, 2005. During a telephone conversation with the undersigned, petitioner asserted that he mailed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Unfortunately, the USPTO does not have any record of receiving a petition from petitioner on August 11, 2005. Moreover, petitioner did not submit sufficient documentary evidence that he filed a renewed petition under 37 CFR 1.137(b) by Express Mail to the USPTO on August 11, 2005. Therefore, the Office accepted the renewed petition as being filed on November 11, 2005, unless petitioner could demonstrate otherwise. Accordingly, the petition was dismissed by the decision of December 6, 2005. The decision notified petitioner that he must submit a "Renewed Petition Under 37 CFR 1.137(b)" within TWO (2) MONTHS from the mail date of the decision. In addition, petitioner was instructed to EITHER: (1) submit a petition for a two-month extension of time with a $225.00 fee OR (2) submit a copy of the ORIGINAL renewed petition. The decision informed petitioner that Express Mail label No. ED829304699US must appear on the copy of

the renewed petition as originally filed in order to demonstrate that it was timely filed on August 11, 2005.

On January 12, 2006, petitioner submitted a second renewed petition, a request for an extension of time for response within the second month, and an authorization to charge a credit card for the $225.00 fee. Unfortunately, the USPTO records indicated that the credit card was declined. The records further showed that the Office of Initial Patent Examination Customer Service called petitioner and left a voicemail message regarding this matter; however, petitioner did not respond. Therefore, the petition was dismissed by the decision of January 23, 2006, due to nonpayment of the extension of time fee. The decision stated that petitioner must submit a "Renewed Petition Under 37 CFR 1.137(b)" and pay the $225.00 extension of time fee and the $50.00 service fee, for a total amount due of $275.00, within TWO (2) MONTHS from the mail date of the decision.

On February 10, 2006, petitioner submitted, *inter alia*, the present renewed petition, a request for an extension of time for response within the second month, and an authorization to charge a credit card for the $225.00 extension of time fee and the $50.00 service fee, for a total amount of $275.00.

Petitioner has met the requirements of 37 CFR 1.137(b). Accordingly, the petition is granted.

This matter is being forwarded to the Office of Initial Patent Examination for further processing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JORG C. GERLACH, MD, PhD.
2634 S.18th Street
PITTSBURGH, PA 15210

MAILED

MAR 18 2010

OFFICE OF PETITIONS

In re Application of :
Joerg C. Gerlach :
Application No. 10/866,280 : DECISION ON PETITION
Filed: June 12, 2004 :
Attorney Docket No. None :

This is a decision on the petition, filed December 8, 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 **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 14, 2008. It is noted that an Advisory Action was mailed on January 22, 2009. A Notice of Abandonment was subsequently mailed on October 13, 2009. On December 8, 2009, the present petition was filed.

Petitioner requests, in effect, that the abandonment be withdrawn since "one of your key letters was sent to a wrong address."

A review of the record confirms that the Advisory Action of January 22, 2009, was not received by petitioner, as the communication was returned to the U.S. Patent and Trademark Office as undeliverable. However, in a newly issued Advisory Action mailed October 9, 2009, the examiner acknowledged that the January 22, 2009 advisory was mailed to an incorrect address and accepted applicant's response filed March 24, 2009, as timely. Since the response filed March 24, 2009, failed to place the application in condition for allowance, the application became abandoned by operation of law on January 15, 2009. Accordingly, relief under the provisions of 37 CFR 1.181 cannot be granted.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a

showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

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

(1) The reply required to the outstanding Office action or notice, unless previously

filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64), provide an appropriate reply to the outstanding Office action, and pay the $810 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application or contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be 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

Enclosure

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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)

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 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 $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

☐ has been filed previously on _____.

☐ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ Signature	_____ Date
_____ Type 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 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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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Plow et al. :
Application Number: 10/866297 : ON PETITION
Filing Date: 06/10/2004 :
Attorney Docket Number: :
SVL920040033US1 :

This is a decision on the paper entitled "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed on January 18, 2008, which is treated as a petition to withdraw the holding of abandonment.

This application became abandoned on September 28, 2007, for failure to timely submit a response to the non-final Office action mailed on June 27, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on January 9, 2008.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action mailed on June 27, 2007. In support of the allegation that the non-final Office action was never received, petitioner has submitted a copy of a docket record and provided a statement by counsel's secretary and docket clerk, Heather Babb, stating that she did not receive the Office action.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on June 27, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and

attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Petitioner has not included a statement by the practitioner that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

The petition is therefore dismissed without prejudice pending submission of a statement by the practitioner as indicated above.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

By hand: Customer Service Window
Mail Stop Petition

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Plow et al. :
Application Number: 10/866297 : ON PETITION
Filing Date: 06/10/2004 :
Attorney Docket Number: :
SVL920040033US1 :

This is a decision on the "RENEWED PETITION UNDER UNDER 37 CFR 1.181" filed on May 5, 2008, which is treated as a renewed petition to withdraw the holding of abandonment.

This application became abandoned on September 28, 2007, for failure to timely submit a response to the non-final Office action mailed on June 27, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on January 9, 2008. On January 18, 2008, the initial petition to withdraw the holding of abandonment was filed. On March 4, 2008, the petition was dismissed.

In the present petition, petitioners again request that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action mailed on June 27, 2007. In support of the allegation that the non-final Office action was never received, petitioner has further submitted a statement by petitioner's registered patent practicioner, David J. McKenzie, stating that the docket report enclosed is a master docket report, and that counsel search the docket and physical file for the non-final Office action mailed on June 27, 2007, but found none.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The petitioner has made a sufficient showing of nonreceipt of the non-final Office action. Accordingly, there was no abandonment in fact.

As such, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2161 technical support staff for remailing of the non-final Office action mailed on June 27, 2007. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 06 2006

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Application of
Kazuyasu Ohashi :
Application No. 10/866,301 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No: R.280.0113/P113-A :

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

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

The application was held abandoned on June 6, 2006, for failure to file a timely response to the non-Final Office Action mailed March 3, 2006. A three month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on October 19, 2006, subsequent to the filing of the instant petition.

Petitioner asserts that a response to the non-Final Office Action was filed on June 5, 2006 but that due to a typographical error, the application serial number was incorrectly identified on the response.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched.

Additionally, petitioner submits a copy of the response and a copy of the post card receipt date stamped by the USPTO on June 5, 2006 as proof the response was timely filed.

In view of the evidence submitted, it can be concluded that a response to the non-Final Office Action was timely filed.

Accordingly, the Notice of Abandonment mailed October 19, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2873 for a review of the response filed June 5, 2006 and resubmitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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.
10/866,305	06/11/2004	John Manolis	04272/RPM	9620

1933 7590 02/05/2010

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
WAKS, JOSEPH	

ART UNIT	PAPER NUMBER
2839	

MAIL DATE	DELIVERY MODE
02/05/2010	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.

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW ORK, NY 10017-2023

In re Application of:	:	
John Manolis	:	DECISION ON PETITION TO THE
Serial No.: 10/866,305	:	DIRECTOR
Filed: June 11, 2004	:	UNDER 37 CFR § 1.181
Docket No.: 04272/RPM	:	

This is a decision on a petition to the Director for reconsideration of the Examiner's refusal to enter an amendment filed Oct 31, 2006.

The petition is DENIED.

The Examiner in an advisory mailed November 14, 2006 denied the entry of amendment to the specification filed October 31, 2006 on the ground that the amendment raises issue of new matter. The review of record indicates that, by the amendment, the Applicant deleted the text "the movement of the compressed hot air makes the turbine rotate," amended "the action endlessly continues" to "the action continues as long as power is available to the motor to operate the engine". The other amendment included changing "the movement of hot air makes the turbine rotate" to "motor 64 makes the turbine rotate (motor 64 corresponding to motor 5 in FIG. 3 which utilizes electricity from the battery 54 to operate the engine 2 which corresponds to engine 61 in FIG. 5)."

Applicant's amendments have changed the way the device functions, by having the motor rotate the turbine rather than the movement of the hot air. Also, now the 'action' does not endlessly continues, but only continues as long as power is available to the motor to operate the engine. Applicant's original disclosure did not provide such a combination of elements working in such a way. Therefore, the changes would bring up substantial issues under 35 USC 132(a) including new matter into the disclosure. Such an amendment will not be entered after a final rejection has been mailed, as is the case in the instant application.

For the above reasons, the petition is hereby denied.

Telephone inquires about this decision should be directed to T. C. Patel at (571) 272-2098.

John Cabeca, Director
Technology Center 2800
Circuits/Measuring and Testing

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DIRECTORS OFFICE
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TECHNOLOGY CENTER 2800

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204-1268

In re Application of:
OLMSTEAD *et al.*
Serial No.: 10/866,308
Filed: June 10, 2004
Attorney Docket No.: **51306/1005:1**

DECISION ON PETITION
UNDER 37 C.F.R. § 1.144

This is a decision on the Petition under 37 C.F.R. § 1.144, filed November 21, 2005, requesting withdrawal of the four-way restriction requirement set forth in the letter of September 21, 2005.

The request is **GRANTED**.

Petitioner asserts that the restriction requirement is in error, it is not apparent that there exist a four-way restriction requirement of Groups I-IV which are all directed to a barcode reading and processing thereof. Accordingly, the restriction requirement should be reversed.

For the above stated reason, the petition is granted.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Michael Lee, Supervisory Patent Examiner, at (571) 272-2398.

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

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George Wheeler
McAndrews, Held and Malloy, Ltd.
500 W. Madison Street 34th Floor
Chicago, IL 60661

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of :
Carmen V. Frazier et al. :
Application No. 10/866,313 : DECISION ON PETITION
Filed: June 10, 2004 : TO WITHDRAW
Attorney Docket No. 15036US02 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

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

A review of the file record indicates that the power of attorney to George F. Wheeler and all attorneys/agents of record have been revoked by the assignee of the patent application on June 27, 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: Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

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DEC 19 2008

MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

In re Application of :
Tripp et al. :
Application No 10/866,315 : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Dkt. No: 68911-091 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 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 to File Missing Parts in a Nonprovisional Application (Notice), 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 application became abandoned on October 4, 2004. A Notice of Abandonment was mailed April 21, 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 executed oath and filing fees (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Pursuant to petitioner's request deposit account no. 50-1133 will be charged the filing fee $850.00, $130.00 surcharge, and $396 for claims over 20.

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

This application is being referred to the Office of Patent Application Processing for review and processing of appropriate filing fees.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: McDermott, Will & Emery
28 State Street
Boston, Massachusetts 02109

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
MEI, Shijin :
Application No. 10/866,364 : DECISION ON PETITION
Filed: June 11, 2004 : TO WITHDRAW
Attorney Docket No. MGNC-120-2 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 26, 2007.

The request is **NOT APPROVED.**

A review of the file record indicates that Richard C. Kim of MORRISON & FOERSTER 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: IP LAW OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU, CA 90265

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NOV 14 2007

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

In re Application of	:
Zhiqiang Gao et al	:
Serial No.: 10/866,370	: PETITION DECISION
Filed: June 10, 2004	:
Attorney Docket No.: 10013.0006US	:

This is in response to the petition under 37 CFR 1.144, filed October 9, 2007, 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 14, 2004, and contained claims 1-26. In a first Office action, mailed January 5, 2007, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 20 and (in part) 1-18 and 21-26, drawn to compounds of Formula I where L_a and L_b are an alkyl chain and Z_a and Z_b represent imidazole;

Group II – Claims 19 and (in part) 1-18 and 21-26, drawn to compounds of Formula I where L_a and L_b are an alkyl chain and one of Z_a and Z_b represents imidazole and the other morpholine;

Group III – Claims (in part) 1-18 and 21-26, drawn to compounds of Formula I or Ii where L_a and L_b are an alkyl chain and Z_a and Z_b represent morpholine; and

Group IV – Claims (in part) 1-18 and 21-26, drawn to compounds of Formula I and Ii not defined in the preceding groups.

An election of species was also required for whichever Group was elected.

The examiner reasoned that the compounds and methods were separate and distinct inventions based on the structures represented by the variables noted above and that the search would be burdensome.

Applicants replied on March 5, 2007, amending claim 1, canceling claim 20, and electing the compounds of Group II with traverse and a species. Applicants argued that the PCT case which corresponds to this case had no Lack of Unity made therein and that all compounds were searched.

The examiner mailed a new Office action to applicants on May 4, 2007, acknowledging the election of Group II and the species with traverse. The examiner considered applicants' arguments for traversal, but maintained the requirement for the same reasons as previously set forth. Claims 4-5 and 9-10 were withdrawn from consideration as drawn to a non-elected invention. Claims 1-3, 6-8 and 11-16 were then rejected under 35 U.S.C. 112, first paragraph, for lack of written description. Claims 1-3, 6-8, 11-18 and 21-24 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claim 23 was rejected under 35 U.S.C. 101 as non-statutory. Claims 19 was indicated allowable, but objected to as depending from a rejected claim.

Applicants filed this petition and an amendment on October 9, 2007, requesting review of the restriction requirement. A Notice of Non-Compliant Amendment was mailed to applicants on October 16, 2007, but has not been responded to as yet.

DISCUSSION

Applicants' petition requests withdrawal of the restriction requirement based on a showing of lack of burden on the Office for searching and examining the claims based on PCT/SG2005/000163, and that where Z_a is imidazole and Z_b is morpholine is a subset of Groups I and III where both variables are imidazole or morpholine and all should be searched together. And applicants disagree with the examiner that the Z moieties confer patentability over the prior art.

First, an examination of the application papers filed does not show any claim for priority under 35 U.S.C. 119 or 120 or any entry into the national phase under 35 U.S.C. 371. No foreign priority is noted in the oath/declaration, as required and no indication of any PCT filing. Applicants' transmittal letter clearly indicates that this application was filed under 35 U.S.C. 111 without a priority claim, and thus not eligible for entry under 35 U.S.C. 371. Thus nothing from the prosecution of PCT/SG2005/000163 has any bearing on this application. Notwithstanding the lack of priority, even if priority were claimed and entry into the National Phase effected, the examining Office is required to reassess Unity or Lack of Unity upon completion of entry requirements. Such determination may be different than any earlier determination based on claim amendments, etc.

Applicants' second point regarding the relationship between Groups I, II and III is noted and not incorrect. As defined in claim 1, the Z_a and Z_b moieties only require the presence of a nitrogen atom and can be any functional group having a nitrogen atom. The restriction, however, appears to be based on claims 19 and 20 which set forth specific compounds having imidazole and/or morpholine groups for Z. As evidenced by the many provisos excluding specific nitrogen containing groups in other claims, the claim 1 definition of either Z is extremely broad and the restriction requirement fails to properly set forth a comprehensive analysis of the compounds claimed.

With respect to the whether certain Z moieties confer patentability on the compounds or compositions, such is a determination made by the examiner and is not related to the propriety of

the restriction requirement. Lastly, the citation of prior art to show diversity of classification of subject matter is optional with the examiner, but can be used to support a restriction requirement. In this particular instance such citation may have been helpful.

Upon careful consideration it has been determined that the search of the compounds of Group II which includes both imidazole and morpholine moieties would necessarily include or encompass compounds where only imidazole or morpholine moieties are present. In view of this the restriction requirement is withdrawn with respect to Groups I-III. Applicants have not substantively argued the requirement with respect to Group IV and it will not be rejoined with Groups I-III.

DECISION

The petition is **GRANTED-IN-PART.** The restriction requirement is modified as above.

The application will be forwarded to the examiner for further consideration upon applicants' reply to the Notice of Non-Compliant amendment mailed October 16, 2007.

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.

Christopher Low
Director TC 1600 (acting) for:
John Leguyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 28 2005

In re Application of
Valerio Bramati, et al
Serial No. 10/866,389
Filed: 6/12/2004
For: CONCENTRATED AQUEOUS PHYTOPATHOLOGICAL FORMULATION COMPRISING A HERBICIDE AND A BETAINE TYPE SURFACTANT

NOTICE OF WITHDRAWAL FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the Issue Fee to reopen prosecution. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written 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 issue fee 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 in order to prevent abandonment of the application.

Telephone inquiries should be directed to Sreenivasan Padmanabhan at 571-272-0629.

Bruce Kisliuk, Director
Technology Center 1600

RHODIA INC.
259 PROSPECT PLAINS ROAD
CN 7500
CRANBURY NJ 08512

UNITED STATES PATENT AND TRADEMARK OFFICE

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

10/866392

Patent No. : 7,622,280
Inventor(s) : Holliger et al.
Issued : November 24, 2009
Title : EMULSION COMPOSITIONS

Docket No. : 18396/2413 (21465-204)

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
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
RMJ

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MINTZ LEVIN

Michelle A. Iwamoto, Ph.D. | 212 692 6240 | maiwamoto@mintz.com
IP Patent Attorney

Chrysler Center
666 Third Avenue
New York, NY 10017
212-935-3000
212-983-3115 fax
www.mintz.com

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. 7,622,280
Issued: November 24, 2009
Entitled: ***"Emulsion Compositions"***
Inventors: Holliger and Ghadessy
Attorney Docket No. 21465-204

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 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

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By Facsimile: (571) 270-9754
Date of Deposit: March 2, 2010

Attorney Docket No. 21465-204

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Phillip **HOLLIGER**, *et al.*	Confirmation No.: 2719
U.S. Patent No.	:	7,622,280	
Issued	:	November 24, 2009	
Application Number	:	10/866,392	
Filed	:	June 11, 2004	
TC/A.U.	:	1636	
Examiner	:	Nancy S. **VOGEL**	
For	:	**EMULSION COMPOSITIONS**	

MAIL STOP PETITIONS
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. **21465-204**, 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

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PAGE 2/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

MAR 0 2 2010

By Facsimile: (571) 270-9754
Date of Deposit: March 2, 2010

Attorney Docket No. 21465-204

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Phillip **HOLLIGER**, *et al.*	Confirmation No.: 2719
U.S. Patent No.	:	7,622,280	
Issued	:	November 24, 2009	
Application Number	:	10/866,392	
Filed	:	June 11, 2004	
TC/A.U.	:	1636	
Examiner	:	Nancy S. **VOGEL**	
For	:	**EMULSION COMPOSITIONS**	

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. 7,622,280. 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. **21465-204**. The facts in support of this petition are as follows:

1. An assignment from the inventors Phillip Holliger and Farid Ghadessy was executed and recorded at the U.S. Patent and Trademark Office in relation to the parent application, U.S. Patent Application Serial No. 10/844,720 (now U.S. Patent No. 7,429,467) on August 16, 2004 at Reel/Frame No. 015678/0330.

2. This assignment recites that the inventors Phillip Holliger and Farid Ghadessy ("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 'Emulsion Compositions' and identified as Serial No.: 10/844,720; Filed May 13, 2004, 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 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 before issuance of the patent.

4. On October 6, 2009, Applicants submitted PTOL-85 that erroneously stated that the name of the assignee was "454 Life Sciences Corporation".

5. On November 24, 2009, U.S. Patent 7,622,280 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. 7,622,280 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 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".

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

PAGE 4/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

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By Facsimile: (571) 270-9754
Date of Deposit: March 2, 2010

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. 7,622,280.

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. **21465-204**.

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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Telephone: (212) 935-3000
Telefax: (212) 983-3115

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PAGE 5/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

EXHIBIT 1

Express Mail No. EM266574742US
Date of Deposit: February 1, 2010

Attorney Docket No.: 21465-204

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Holliger, P. et al.	CONFIRMATION NUMBER :	2719
U.S. PATENT NO.:	7,622,280	ISSUE DATE :	November 24, 2009
SERIAL NUMBER :	10/866,392	EXAMINER :	Vogel, Nancy T.
FILING DATE :	June 11, 2004	ART UNIT :	1636
FOR :	**EMULSION COMPOSITIONS**		

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. 5244 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. **21465-204**; Customer No. **35437**.

Respectfully submitted,

Dated: February 1, 2010

Michelle A. Iwamoto

EM266574742US

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

PAGE 7/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

Express Mail No. EM266[illegible]42US
Date of Deposit: February 1, 2010

Attorney Docket No.: 21465-204

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Holliger, P. et al.	CONFIRMATION NUMBER :	2719
U.S. PATENT NO.:	7,622,280	ISSUE DATE :	November 24, 2009
SERIAL NUMBER :	10/866,392	EXAMINER :	Vogel, Nancy T.
FILING DATE :	June 11, 2004	ART UNIT :	1636
FOR :	**EMULSION COMPOSITIONS**		

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. 7,622,280. An assignment from the inventors Phillip Holliger and Farid Ghadessy was executed and recorded at the U.S. Patent and Trademark Office in relation to the parent application, U.S. Patent Application Serial No. 10/844,720 (now U.S. Patent No. 7,429,467) on August 16, 2004 at Reel/Frame No. 015678/0330. This assignment recites that the inventors Phillip Holliger and Farid Ghadessy ("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 'Emulsion Compositions' and identified as Serial No.: 10/844,720; Filed May 13, 2004, 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 and foreign countries, which may be

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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 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. 7,622,280. 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. **21465-204**.

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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Telefax: (212) 983-3115

PAGE 9/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04

Express Mail No. EM266. 1742US Attorney I :ket No.: 21465-204
Date of Deposit: February 1, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.:	7,622,280
APPLICATION NO.:	10/866,392
ISSUE DATE:	November 24, 2009
INVENTOR(S):	Phillip Holliger and Farid Ghadessy

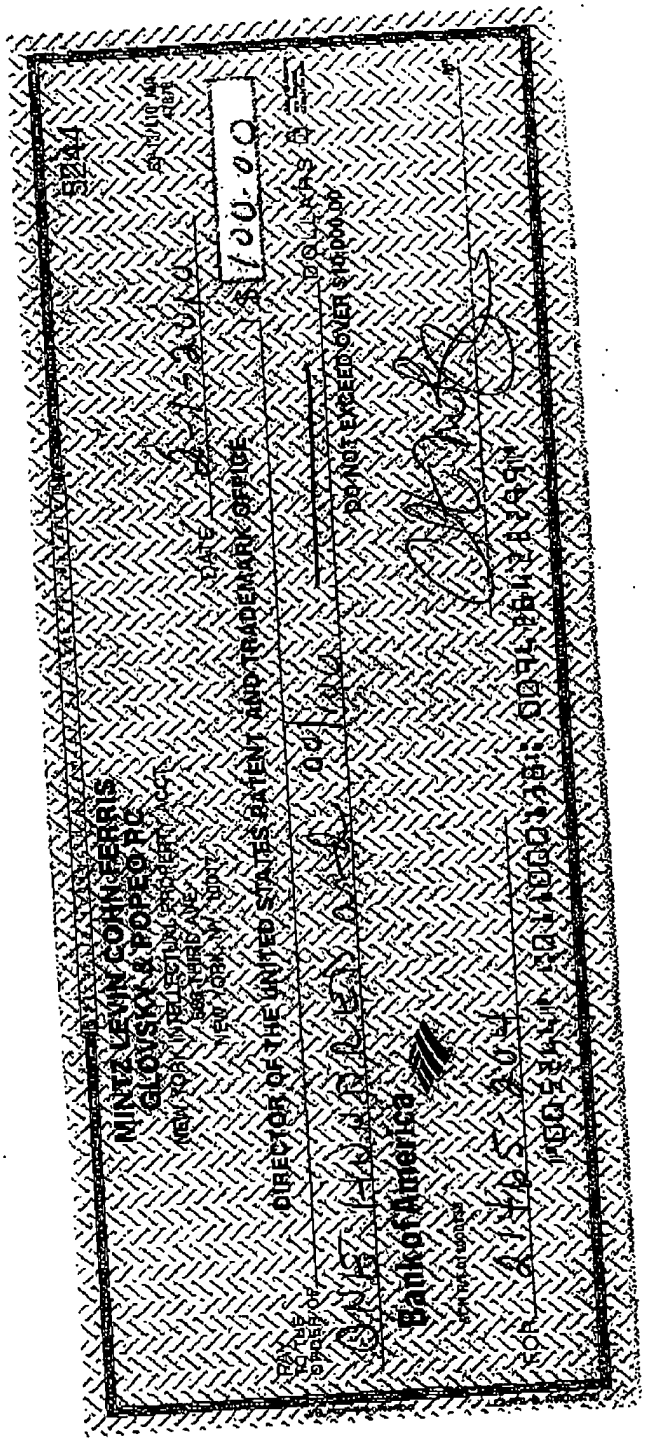
It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

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

PAGE 10/16 * RCVD AT 3/2/2010 5:51:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/4 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-04


MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO PC
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Bank of America

Serial No. 7,622,392 10/866,392 File No. 21465-204 By: [illegible]

Title: Emulsion Compositions

Application of Holliger et al. Date 11/24/2009 06/11/2004

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
[ ] Int. 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 # 9244
[X] Transmittal Letter (x2)
[ ] Cert. of Mailing under 37CFR 1.8(a)
[X] Express Mail Label No. EM266574742US

[X] Other Request for Certificate of Correction (2 pgs.)
Certificate of Correction (1 pg.)

DATE MAILED 02/01/2010 02/01/2010

OPAP IAP19 FEB 01 2010 PATENT & TRADEMARK OFFICE

Serial No. 7,622,392 10/866,392 File No. 21465-204 By: [illegible]

Title: Emulsion Compositions

Application of Holliger et al. Date 11/24/2009 06/11/2004

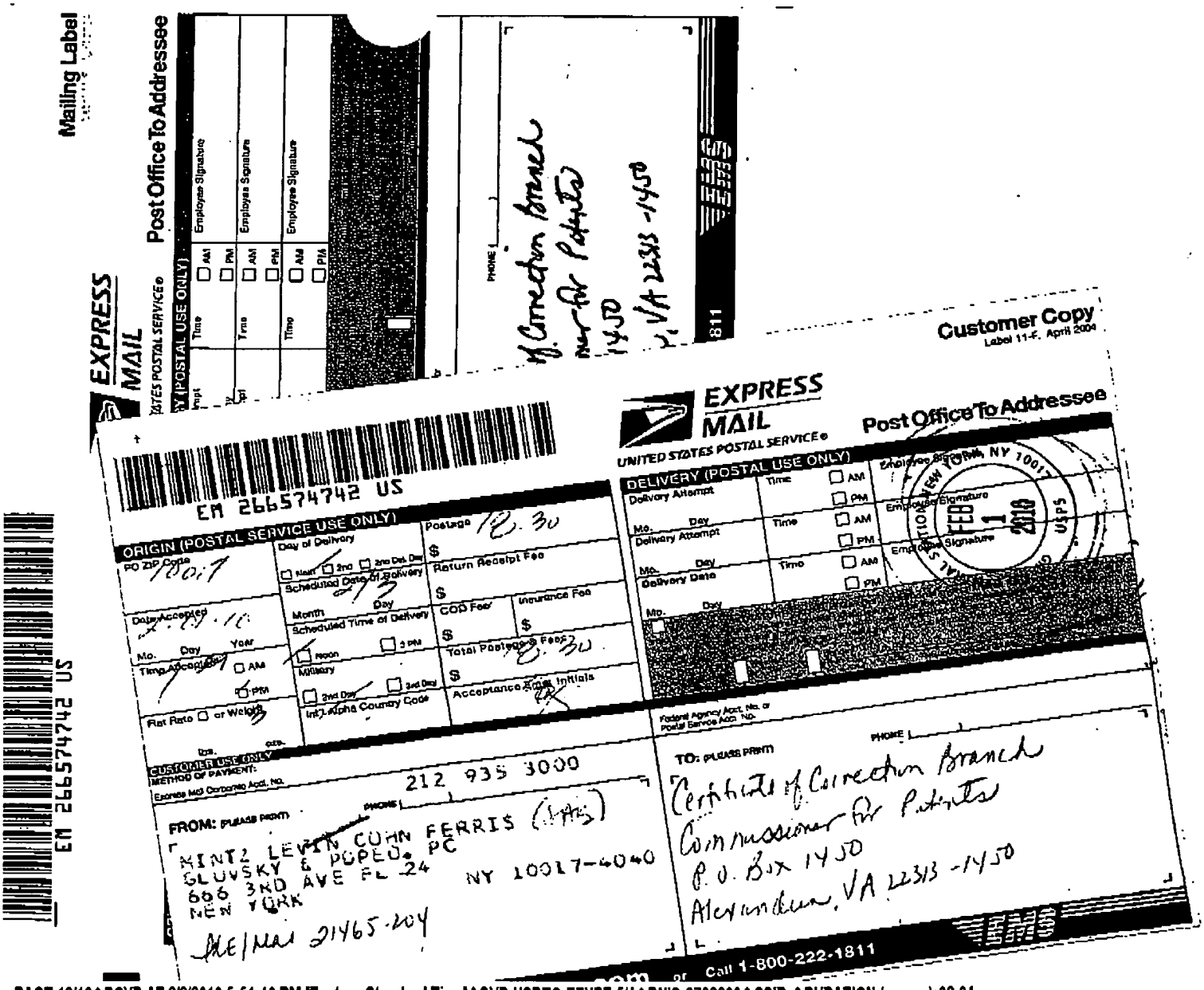
The U.S. PTO Mail Room acknowledges receipt of the following on the date stamped hereon:

[ ] 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
[ ] Int. 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 # 9244
[X] Transmittal Letter (x2)
[ ] Cert. of Mailing under 37CFR 1.8(a)
[X] Express Mail Label No. EM266574742US

[X] Other Request for Certificate of Correction (2 pgs.)
Certificate of Correction (1 pg.)

DATE MAILED 02/01/2010 02/01/2010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Total Postage & Fees 8.30
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212 935 3000
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, PC
666 3RD AVE FL 24
NEW YORK NY 10017-4040
ME/MAI 21465.204
TO: (PLEASE PRINT)
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EXHIBIT 2

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Patent No. : 7,622,280
Inventor(s) :Holliger et al.
Issued : November 24, 2009
Title : EMULSION COMPOSITIONS

Docket No. : 18396/2413 (21465-204)

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
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

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NOV 09 2005

BORIS LESCHINSKY
30 WEST SADDLE RIVER ROAD
WALDWICK NJ 07463

In re Application of :
Armen P. Sarvazyan et al :
Serial No.: 10/866,395 : DECISION ON PETITION
Filed: June 12, 2004 :
For: Tactile Breast Imager and Method For Us :

This is in response to applicants' petition filed July 19, 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 Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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TC 3600

BORIS LESCHINSKY
P.O. BOX 72
Waldwick, NJ 07463

In re application of : **DECISION ON PETITION**
Armen P. Sarvazyan et al : **TO MAKE SPECIAL**
Application No. 10/866,396 : **(APPLICANT'S AGE)**
Filed: June 12, 2004 :
For: DEVICE AND METHOD FOR BIOPSY GUIDANCE USING A TACTILE BREAST IMAGER

This is a decision on the petition submitted on July 21, 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. Sarvazyan 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: 9/13/04

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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: David J. Zahniser	: DECISION ON REQUEST FOR
Patent Number	: 7590492	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,397	: 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 **1098** 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

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TECHNOLOGY CENTER 2100

In re Application of: Ueoka, et al.
Application No. 10/866,402
Filed: 10 June 2004
For: CONNECTIVITY CONFIRMATION METHOD FOR NETWORK STORAGE DEVICE AND HOST COMPUTER

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

This is a decision on the renewed petition filed 7 November 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 is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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

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SAN FRANCISCO CA 94111-3834

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Technology Center 2100

In re Application of: KANO
Application No. 10/866,413
Filed: June 10, 2004
For: METHOD AND APPARATUS FOR VALIDATION OF APPLICATION DATA ON A STORAGE SYSTEM

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

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

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 02 June 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish independent claims 1, 15, 22, and 23 from the references are not in these claims. Some examples follow.

-Claims 1 and 22 fail to require that the "access control information associated with file identification information" be "in the data request".

-Claim 22 fails to require "receiving a data request from an application-level program *executing on said first data processing system*" (emphasis added). Nor does it require receiving a data request "from a first data processing system".

-Claim 15 fails to require "receiving a data request from a *first data processing system* which includes *access control information* and file identification information" (emphasis added). Nor does it require obtaining "local" access information.

-Claim 23 fails to require "receiving a data request from a *first data processing system*" (emphasis added). Nor does it require "obtaining local access information in *a second data processing system*" (emphasis added).

Additionally, for each of the references deemed most closely related, petitioner states that the "reference *appears to* fail to either anticipate or render obvious at least the following limitation" (emphasis added). It is not clear if petitioner is asserting that the reference fails to teach a particular feature or not. Consequently, petitioner fails to point out the specific distinctions believed to render the claims patentable.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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George Yee
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Yoshiki KANO
Application No. 10/866,413
Filed: June 10, 2004
For: METHOD AND APPARATUS FOR VALIDATION OF APPLICATION DATA ON A STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

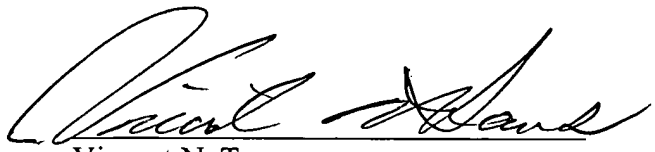
This is a decision on the renewed petition, filed on August 29, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of August 29, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



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

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SUITE D-2
SARATOGA CA 95070

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OFFICE OF PETITIONS

In re Application of
Isenstein, et al :
Application No. 10/866,428 : DECISION ON
Filed: June 10, 2004 : PETITION
Attorney Docket No. 11.034011 US :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 14, 2007.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the non-final Office action mailed June 27, 2006. No response having been received, the application became abandoned on September 27, 2006. A Notice of Abandonment was mailed on March 6, 2007.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Mailing under 37 CFR 1.8 dated September 27, 2006.

Given the basis for granting this petition, no petition fee was required.

The matter is being forwarded to Group Art Unit 1743 for consideration of the Amendment (Certificate of Mailing dated September 27, 2006), a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BROOKHAVEN NATIONAL LABORATORY
BLDG. 475D -P.O. BOX 5000
UPTON NY 11973

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OCT 27 2006

OFFICE OF PETITIONS

In re Patent No. 6,998,913 :
Issue Date: February 14, 2006 :
Application No. 10/866,441 : NOTICE
Filed: June 14, 2004 :
Attorney Docket No. BSA 04-13 :

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Candice Hellen Brown Elliott	: DECISION ON REQUEST FOR
Patent Number	: 7590299	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,447	: 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 **647** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KIRTON AND MCCONKIE
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SUITE 1800
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
M. Brent Norton et al :
Application No. 10/866,450 : ON PETITION
Filed: June 11, 2004 :
Attorney Docket No. 11856.7 :

This is a decision on the petition filed August 7, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 13, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 14, 2007.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No.

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

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OFFICE OF PETITIONS

In re Application of	:	
Nair et al.	:	
Application No. 10/866,460	:	ON APPLICATION FOR
Filed: June 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. GENSP122	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. §1.705 filed December 9, 2008. Applicant requests that the determination of patent term adjustment be corrected from eight hundred twenty-two (822) days to, at minimum, one thousand ninety-two (1092) days. Referring to Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008), applicant requests this correction 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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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PATENT COUNSEL
APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of :
Kaushal K. Singh et al :
Application No. 10/866,471 : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. AM-7941 :

This is a decision on the petition, filed October 3, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2006. A Notice of Abandonment was mailed on August 22, 2006.

Petitioner states that she was not able to pay the issue fee at the time it became due, "because the Examiner had withdrawn the initial allowance, based on a late filed Supplementary Information Disclosure [Statement], and no claims were allowable at the time the issue fee was to be paid." In this regard, petitioner states that the SIDS submitted on February 10, 2006 (after the mailing of the Notice of Allowance) caused the Examiner to decide that the claims could not be allowed in their existing form. While there were several telephone conversations with the Examiner, no agreement could be reached as to allowable claim language and there was a possibility that none of the claims might be allowed. Subsequent to the due date for payment

of the issue fee, an agreement was reached about claim amendment and a Supplemental Notice of Allowability was mailed on June 9, 2006, which contained an error and was corrected in a Supplementary Amendment to correct the error. Petitioner opines that applicants were entitled to pay the issue fee at least three months from the mailing date of the Supplemental Notice of Allowability. The issue and publication fees were paid on September 6, 2006 by Express Mail. In view thereof, petitioner requests that the holding of abandonment be withdrawn and the application pass to issue with the issue fee paid on September 6, 2006.

Initially, it is noted that papers intended for this file are being directed to an incorrect application because of the wrong application number appearing on the correspondence being filed. Petitioner should make sure that all future communications for this application include the correct identifier so as to avoid delay in associating papers with the file.

Petitioner's arguments in support of a showing of why the holding of abandonment should be withdrawn are not persuasive. In this regard, petitioner is advised that, unless she receives a notice from the Office withdrawing this application from issue, the issue fee must be paid to avoid the abandonment of the application. *Note* MPEP 1308. There is no indication in the file record of this application that the Examiner did not allow the claims; rather, until a notice is issued to the contrary, the claims in this application stood allowed and, as such, the issue fee must have been paid on or before the due date to avoid the abandonment of the application. Although amendments, Information Disclosure Statements and other papers are filed in an application after the mailing of a Notice of Allowability and Notice of Allowance and Issue Fee(s) Due, these papers can be considered without withdrawing the application from issue, as was done in the present application.

Petitioner is also advised that, when no agreement was reached prior to the due date for payment of the issue (and publication) fee, the filing a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

Lastly and more importantly, as this application was abandoned prior to the mailing of the Supplemental Notice of Allowability, the Examiner was without authority to take further action in this abandoned application, much less reset the period for payment of the issue fee. Therefore, as this application was abandoned at the time of mailing of the Supplemental Notice of Allowability, petitioner's argument that the mailing date of the Supplemental Notice of Allowability should have resulted in an issue fee payment deadline which was at least three months later; *i.e.*, September 9, 2006, is without merit.

In view of the above, the holding of abandonment is proper and will not be withdrawn.

A petition under 37 CFR 1.181 does not require a fee. Accordingly, the $130 petition fee submitted will be refunded to petitioner's deposit account in due course.

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee.

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

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

DATE 8-22-07 APPLICATION NUMBER 10/866471

DOC CODE Ret.Des.Pubs DOC DATE 8/22/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT COUNSEL
APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA, CA 95052

COPY MAILED

AUG 22 2007

OFFICE OF PETITIONS

In re Application of :
Kaushal K. Singh et al :
Application No. 10/866,471 :CORRECTED DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. AM-7941 :

This is a CORRECTED decision on the petition under 37 CFR 1.137(b), filed March 5, 2007, to revive the above-identified application. The application number on the decision mailed on August 16, 2007 incorrectly referenced Application No. 10/866,741 rather than the correct application number of 10/866,471.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2006. A Notice of Abandonment was mailed on August 22, 2006. A petition under 37 CFR 1.181 to withdraw the holding of abandonment was filed on October 3, 2006 and was dismissed in a decision mailed February 16, 2007. Petitioner now files this petition to revive under 37 CFR 1.137(b).

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) an adequate statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Under 37 CFR 1.137(b)(3), a statement is required 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 the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES 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 COUNSEL
APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA, CA 95052

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Kaushal K. Singh et al 471 :
Application No. 10/866,~~741~~ : DECISION ON PETITION
Filed: June 10, 2004 :
Attorney Docket No. AM-7941 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 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 April 12, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2006. A Notice of Abandonment was mailed on August 22, 2006. A petition under 37 CFR 1.181 to withdraw the holding of abandonment was filed on October 3, 2006 and was dismissed in a decision mailed February 16, 2007. Petitioner now files this petition to revive under 37 CFR 1.137(b).

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) an adequate statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Under 37 CFR 1.137(b)(3), a statement is required 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 the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MAIL

APR 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Boris Leschinsky
P.O. Box 72
Waldwick, NJ 07463

In re Application of :
Armen P. Sarvazyan, et al. :
Application No. 10/866,487 : DECISION ON PETITION
Filed: June 12, 2004 : TO MAKE SPECIAL
For: AN INTERNET-BASED SYSTEM AND A :
METHOD FOR AUTOMATED ANALYSIS OF :
TACTILE IMAGING DATA AND DETECTION
OF LESIONS

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed July 21, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

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

The petition includes a statement by Armen P. Sarvazyan, stating that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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United States Patent and Trademark Office
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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Rajiv Gupta et al	:	
Application No. 10/866,508	:	DECISION ON PETITION
Filed: June 12, 2004	:	TO WITHDRAW
Attorney Docket No. 23096-08649	:	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 6, 2005.

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

A review of the file record indicates that the power of attorney to Rajiv P. Patel and all the attorneys/agents of record associated with customer No. 00758 have been revoked by the assignee of the patent application on August 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2131.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Gupta, et al.	:	
Application No. 10/866,508	:	DECISION ON PETITION
Filed: June 12, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 21756-015200	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 26, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2438 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/866,508	06/12/2004	2438	782	21756-015200	26	4

CONFIRMATION NO. 1367

CORRECTED FILING RECEIPT

51206
TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 05/21/2010

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

Applicant(s)

Rajiv Gupta, Los Altos, CA;
Sekhar Sarukkai, Sunnyvale, CA;

Power of Attorney: The patent practitioners associated with Customer Number 51206

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/489,911 07/25/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/866,508**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

POLICY BASED SERVICE MANAGEMENT

Preliminary Class

726

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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Heller, Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 82122

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of
Kenneth J. Livak et al.
Application No. 10/866,523
Filed: June 10, 2004
Attorney Docket No. 39770-0010 A

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 July 3, 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 correspondence address has been changed to the first signing inventor and is copied below.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kenneth J. Livak
1148 Polk Lane
San Jose, CA 95117

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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
10/866,523	06/10/2004	Kenneth J. Livak	39770-0010 A

CONFIRMATION NO. 9299

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000031071581

Date Mailed: 07/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/03/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

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

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MAY 10 2010

OFFICE OF PETITIONS

GOODWIN PROCTERLLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

In re Application of	:	
Kenneth J. Livak, et al.	:	
Application No. 10/866,523	:	DECISION ON PETITION
Filed: June 10, 2004	:	TO WITHDRAW
Attorney Docket No. APB-0010	:	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 4, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Paul Davis on behalf of all attorneys of record. All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **APPLIED BIOSYSTEMS, LLC**
5791 VAN ALLEN WAY
CARLSBAD, CA 92008

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
10/866,523	06/10/2004	Kenneth J. Livak	APB-0010

CONFIRMATION NO. 9299

POWER OF ATTORNEY NOTICE

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC000000041541123

Date Mailed: 05/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/04/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

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

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

Mail Date: 06/28/2010

Applicant	: Kapil Jain	: DECISION ON REQUEST FOR
Patent Number	: 7640317	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/866,528	: 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 **1177** 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

KATHY SMITH DIAS, ESQ.
HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of :
Brian A. Miki, et al. :
Application No. 10/866,529 : DECISION ON PETITION
Filed: June 11, 2004 :
Attorney Docket No. GOW-001CP2 :

This is a decision in response to a petition filed January 3, 2005, requesting that the above-identified application be accorded a filing date of June 11, 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. However, in accordance with 37 CFR 1.34(a), the signature of Daniel A. Wilson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Wilson 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.

A review of the record discloses that USPTO records have been updated to show the correct filing date pursuant to 37 CFR 1.10. A corrected Official Filing Receipt was mailed on May 3, 2005.

Accordingly, the present petition is dismissed as moot. No petition fee was charged to counsels deposit account, nor is one due.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Daniel A. Wilson
Testa Hurwitz and Thibeault, LLP
125 High Street
Boston, MA 02110

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BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN TX 78746

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Gerald L. Fudge et al :
Application No. 10/866,532 : ON PETITION
Filed: June 12, 2004 :
Attorney Docket No. LCOM:024 :

This is a decision on the petition, filed January 20, 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, 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 2819 will consider the request for continued examination under 37 CFR 1.114.

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

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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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

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JAN 23 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Gerald L. Fudge et al
Application No. :10/866,532
Filed :June 12, 2004

The above-identified application has been assigned Patent No. 6,995,704 and an issue date of February 7, 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 February 7, 2006:

> "All reference to Patent No. 6,995,704 to Gerald L. Fudge et al; of Texas for SYSTEMS AND METHODS FOR ANALOG TO DIGITAL CONVERSION appearing in the Official Gazette of February 7, 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
Tamara Greene, ST-8C13

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THE LAW OFFICES OF MIKIO ISHIMARU
1110 SUNNYVALE-SARATOGA ROAD
SUITE A1
SUNNYVALE, CA 94087

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Il Kwon Shim et al	:	
Application No. 10/866,561	:	DECISION GRANTING PETITION
Filed: June 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 27-016	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 28, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed July 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee and $300 publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The application file is being forwarded to Publishing Division for processing into a patent.

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

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OFFICE OF PETITIONS

In re Patent No. 7,406,461 :
Issued: July 29, 2008 :
Application No. 10/866,565 : PATENT TERM ADJUSTMENT
Filed: June 11, 2004 :
Dkt. No.: 09991.0014 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed August 7, 2008. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,406,461 on July 29, 2009. The instant request for reconsideration was timely filed. The patent issued with a PTA of 358 days. Patentees argue that the adjustment was improperly reduced 103 days in connection with the information disclosure statement (IDS) filed April 18, 2008. Patentees argue that the correct reduction in this regard is 29 days.

Patentees arguments have been carefully considered and found convincing. The correct adjustment at the time of issuance is 432 days.

The adjustment of 461 days was improperly reduced 103 days in connection with the IDS filed April 18, 2008. The correct reduction in this regard, pursuant to 37 CFR 1.704(c)(10), is 29 days, as argued by patentees. The reduction commenced April 18, 2008, the date that the IDS was filed, and ended May 16, 2008, the date that a response thereto was mailed.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 432 days (adjustments totaling 461 days less reduction of 29 days).

The Office acknowledges receipt of the $200.00 application fee required under 37 CFR 1.18(e).

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

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 358 days.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,406,461 B1
DATED	:	July 29, 2008
INVENTOR(S)	:	Chapman, 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 358 days

Delete the phrase "by 358 days" and insert – by 432 days--

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FARGO ND 58108-2842

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OFFICE OF PETITIONS

In re Application of
Harold Struksnes
Application No. 10/866,605
Filed: June 10, 2004
Attorney Docket Number: STRU-001

ON PETITION

This is a decision on the petition filed April 13, 2007, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on October 30, 2006 after the applicant failed to file a timely response to the non-Final Office Action mailed July 27, 2006. Accordingly, a Notice of Abandonment was mailed February 23, 2007.

Petitioner argues that the non-Final Office Action was not received and includes copies of the file jacket and docket to establish non-receipt.

A review of the file reveals that the non-Final Office Action was mailed to the address of record on July 27, 2006, but was returned by the US Postal Service on October 27, 2006 with a notation that the P.O. Box to which it was addressed had been closed.

While petitioner provides proof of non-receipt, but in light of the information provided by the US Postal Service, petitioner has not provided proof that an address change has been properly filed with the USPTO or that petitioner maintained the P.O. Box, which was the address of record.

As petitioner has not presented any evidence that the address of record had been

changed with the USPTO at the time the non-Final Office Action was mailed, and in the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with up to date addresses or maintaining the P.O. Box number used as the address of record, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

Providing docket records to show non-receipt does not overcome petitioners burden and is therefore not persuasive evidence that petitioners were without fault in the non-receipt of the non-Final Office Action.

If the error was US Postal Service error, since petitioner is still corresponding with the USPTO using the PO Box address, petitioner should provide evidence that they were without fault in this instance.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional

petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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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P O BOX 2842
FARGO ND 58108-2842

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of
Harold Struksnes
Application No. 10/866,605
Filed: June 10, 2004
Attorney Docket Number: STRU-001

ON PETITION

This is a decision on the petition filed January 22, 2008 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 30, 2006 after the applicant failed to file a timely response to the non-Final Office Action mailed July 27, 2006. Accordingly, a Notice of Abandonment was mailed February 23, 2007.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3654 for appropriate action on the amendment filed January 22, 2008.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

NEUSTEL LAW OFFICES, LTD.
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SUITE 4
FARGO, ND 58103

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Dan de la Rosa
Suite 27H
345 East 80th Street
New York, NY 10021

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DEC 17 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Robert A. DeMars : **TO MAKE SPECIAL**
Application No. 10/866,611 : **(PROSPECTIVE MANUFACTURE)**
Filed: June 14, 2004 :
For: PORTABLE BAR WITH COLLAPSIBLE COMPONENTS

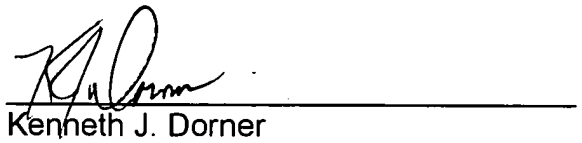
This is a decision on the petition under 37 C.F.R §1.102(d) filed July 6, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

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

The petition filed July 6, 2004 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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



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

KJD/rwg : 12/04/04

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DAN DE LA ROSA
SUITE 27H
345 E 80TH ST.
NEW YORK NY 10021

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In re Patent No. 6918640	:	
Issue Date: 07/19/2005	:	
Application Number: 10/866611	:	ON PETITION
Filing Date: 06/14/2004	:	
Attorney Docket Number: P-0071US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 7, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 19, 2009, for failure to timely pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The address listed on the petition is different than the correspondence address of record. 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 patent will be mailed solely to the address of record. If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DAN M. DELA ROSA, ESQ.
300 EAST 77TH ST, STE 24C
NEW YORK NY 10075

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

THE HALVORSON LAW FIRM, P.C.
1757 E. BASELINE RD., STE 130
GILBERT, AZ 85233

In re Application of
Teresanne Griffin, et al.
Application No. 10/866,626
Filed: June 12, 2004
Attorney Docket No. 406-021

ON PETITION

This is a decision in response to the petition, filed September 4, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed September 6, 2006. A Notice of Abandonment was mailed on May 15, 2007. On September 4, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or 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. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $510 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 1731 for consideration of the amendment filed September 4, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of
Peter Williams
Application No. 10/866,648
Filed: June 11, 2004
Attorney Docket No. 2222.5680001

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in an amendment /declaration filed November 18, 2004.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of prior-filed Application No. 10/023,364 to this application, are required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED

AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter Williams	:	
Application No. 10/866,648	:	DECISION GRANTING PETITION
Filed: June 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2222.5680001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 30, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 17, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed petition under 37 CFR 1.78(a)(3).

Karen Creasy
Petitions Examiner
Office of Petitions

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

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of
Peter Williams
Application No. 10/866,648
Filed: June 11, 2004
Attorney Docket No. 2222.5680001

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2876 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.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/866,648	06/11/2004	2876	741	2222.5680001	38	4

CONFIRMATION NO. 9571

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

CORRECTED FILING RECEIPT

OC000000025651813

Date Mailed: 08/31/2007

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

Applicant(s)

Peter Williams, Mosman, AUSTRALIA;

Power of Attorney: The patent practitioners associated with Customer Number **26111**.

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/IB02/05280 12/11/2002
which is a CON of 10/023,364 12/13/2001 PAT 6,641,037

Foreign Applications

If Required, Foreign Filing License Granted: 09/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/866,648

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR INTERACTIVELY PROVIDING PRODUCT RELATED INFORMATION ON DEMAND AND PROVIDING PERSONALIZED TRANSACTIONAL BENEFITS AT A POINT OF PURCHASE

Preliminary Class

235

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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AUG 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

In re Application of: Shiraki, et al.
Application No. 10/866,674
Filed: 15 June 2004

For: COMMAND MULTIPLEX NUMBER MONITORING CONTROL SCHEME AND COMPUTER SYSTEM USING THE COMMAND MULTIPLEX NUMBER MONITORING CONTROL SCHEME

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

This is a decision on the petition filed 6 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 6 June 2005 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), Applicant must bring out the specific claim limitations that define the claims over the references. The requirement 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." The Applicant's petition, however, does not distinctly identify the limitations that distinguish the claims from the referenced prior art.

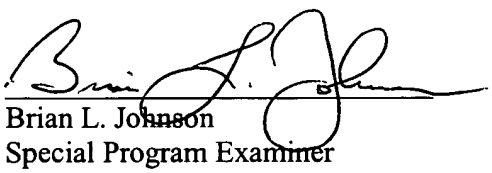
Applicant's claim treatment in the discussion does not illuminate the patentable limitations in the claimed subject matter. The petition simply recites the bulk of claims 1 and 6, without emphasizing discrete/limited features that constitute the patentable subject matter. This, however, lacks the specificity necessary to point out, with particularity, the inventive basis of each independent claim.

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
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

MAILED
NOV - 8 2005
Technology Center 2100

In re Application of: SHIRAKI, et al.
Application No. 10/866,674
Filed: June 15, 2004
For: COMMAND MULTIPLEX NUMBER MONITORING CONTROL SCHEME AND COMPUTER SYSTEM USING THE COMMAND MULTIPLEX NUMBER MONITORING CONTROL SCHEME

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

This is a response to the petition filed 04 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

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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AUG 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

In re Application of: Koizumi, et al.
Application No. 10/866,676
Filed: 15 June 2004

For: DISK ARRAY DEVICE AND CACHE CONTROL METHOD FOR DISK ARRAY 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 **GRANTED**.

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

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

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

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

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

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

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

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

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

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

GO

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DEC 13 2004

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

In re Application of :
Gregory R. Viggiano :
Serial No.: 10/866,726 : DECISION ON PETITION
Filed: June 15, 2004 :
For: Infant Care Apparatus :

This is in response to the petition applicant filed on June 15, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571)272-2975 or by facsimile transmission at (571)273-0275.

John E. Kittle
Director
Technology Center 3700/2900

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Akio Nishizawa	: DECISION ON REQUEST FOR
Patent Number	: 7653301	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PO BOX 320850
ALEXANDRIA VA 22320-4850

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Eiji Tsuru	:	
Application No. 10/866,730	:	DECISION ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. 112410.01	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 6, 2008.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed October 22, 2007. A Notice of Abandonment was mailed on April 28, 2008.

A review of the application file reveals the presence of an amendment filed on April 22, 2008. The Amendment was made timely by including a three month extension of time. A review of Office finance records reveals that the Office did in fact receive the fee for the three month extension. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 1794 for consideration of the amendment filed April 22, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

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JUL 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,071,229 :
Application No. 10/866,733 :
Filed: June 15, 2004 : ON PETITION
Issued: July 4, 2006 :
Attorney Docket No. 0230-0216PUS1 :

This is a decision on the petition, filed June 28, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "Tokiwa Phytochemical Co., Ltd" and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to "Tokiwa Phytochemical Co., Ltd." has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "Tokiwa Phytochemical Co., Ltd." was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

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

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "Tokiwa Phytochemical Co., Ltd." as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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SUITE 370
ALEXANDRIA VA 22314

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DEC 1 4 2005

Technology Center 2100

In re Application of: TAGUCHI
Application No. 10/866,752
Filed: June 15, 2004
For: METHOD AND APPARATUS FOR CACHING STORAGE SYSTEM

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

This is a response to the petition filed 29 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 29 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies a numbered feature for each independent claim (a first feature of independent claim 1 and a second feature of independent claim 13). There is also a statement for each of the references deemed most closely related that the reference fails to teach or suggest each of the numbered features. However, each of the numbered features recites so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references.

Also, on page 5 of the petition, it is stated that "[t]o the extent applicable to the present Petition, Applicants submit that although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." It is not clear if the statement is applicable to the present petition or not. The language "to the extent applicable to the present Petition" gives no indication as to whether the statement actually applies in the instant application or not. Rather, this language is generic to practically any petition of this type and is not specific to the instant application. If the combination of elements referred to do in fact constitute a substantial portion of the claim, then this should be stated. Also, if the combination of elements is necessary because, e.g., there is a necessary interoperability among these elements, then this too should be stated and the reasons for the, e.g., necessary interoperability, discussed.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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AUG 31 2006

TECHNOLOGY CENTER 2100

In re Application of: Yuichi TAGUCHI
Application No. 10/866,752
Filed: June 15, 2004
For: METHOD AND APPARATUS FOR CACHING STORAGE SYSTEM

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

This is a decision on the Request for Reconsideration filed February 2, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on August 29, 2005, and dismissed on December 14, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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Chandrakant C. Shroff
Registered Patent Agent
600 North Pickett Street
Alexandria, VA 22304-2110

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OFFICE OF PETITIONS

In re Application of
Michael Stephenson
Application No. 10/866,757
Filed: June 15, 2004
Attorney Docket No. MS-2004-01

DECISION GRANTING PETITION

This is a decision on the petition filed August 11, 2004, requesting that the above-identified application be accorded a filing date of June 15, 2004, with 10 pages of the specification and 2 pages of claims as part of the original disclosure.

The petition is **granted.**

On June 15, 2004, the above-identified application was filed. On August 3, 2004 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application " (the "Notice"), stating that the application had not been accorded a filing date because claims were not found with the application papers. The Notice also indicated that pages of 1, 11, and 12 of the specification were omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on August 11, 2004, applicant filed the present petition, a copy of the 10 pages of the specification, and the two pages of claims (containing four claims), and a copy of the Office date-stamped postcard receipt acknowledging receipt of 10 pages of the specification and 4 claims, on June 15, 2005.

Upon review of the record, the claims were not located among the original application papers. The evidence is convincing, however, that 2 pages of claims (containing four claims) accompanied the original application papers. Therefore, the application was entitled to a filing date of June 15, 2004.

Relative to the omitted pages 11 and 12 of the specification, pages 11 and 12 were not found among the original application papers, but the evidence is also convincing that pages 11, and 12 of the specification accompanied the original application papers. Therefore, the copies of pages 11 and 12 of the application papers as filed on August 11, 2004, will be included as part of the originally filed application papers.

Relative to the alleged omitted page 1 of the specification, no page numbered "1" was found among the original application papers or the copy of the specification filed with the petition. Likewise, no page numbered "2" of the specification was found in either the originally filed specification or the copy of the specification. It appears that the specification was misnumbered in some way, notwithstanding the Office's failure to recognize that the specification papers begin with "page "3", and neither a page 1 or 2 are present. Petitioner should file a preliminary amendment prior to the first action on the merits renumbering the pages of the specification, accordingly.

The application file is being returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date of June 15, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/866,766 : ON PETITION
Filed: June 15, 2004 :
Attorney Docket No. 740756-2738 :

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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) 272-3208.

The examiner of Technology Center AU 2815 will consider the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Jay LEE	:	
Application No. 10/866,769	:	DECISION ON PETITION
Filed: June 15, 2004	:	TO WITHDRAW
Attorney Docket No. 130855.0122	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 14, 2010.

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

A review of the file record indicates that the power of attorney to Michael C. Greenbaum and the attorneys of record associated with Customer No. 27557, has been revoked by the assignee of the patent application on May 18, 2010. 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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL C. GREENBAUM
BLANK ROME LLP
600 NEW HAMPSHIRE AVE., NW
WASHINGTON DC 20037

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Clyde I. Coughenour
16607 Sutton Place
Woodbridge VA 22191

2/26/09

In re Application of:
HAMILTON, WILLIAM R.
Serial No. 10/866,791
Filed: Jun 15, 2004
Docket: n/a
Title: ADJUSTABLE RING POSITIONER

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed February 19, 2009 under 37 CFR 1.181 requesting withdrawal of the restriction requirement of October 31, 2008 by rejoining claims 4-7 and 10-15. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement with respect to subcombination useable together in claims 1-15 mailed on October 31, 2008 is withdrawn. Claims 4-7 and 10-15 will be rejoined with the elected invention as claimed in claims 1-3 and 8-9. The examiner has been requested to issue an Office action to treat claims 4-7 and 10-15 on the merits while non-elected claims 16-20 directed to non-elected species of Fig.4 remain withdrawn from consideration pursuant to the original election of species of August 8, 2008. It is noted that the applicant has elected species of Fig. 1 without traverse on September 12, 2008. If a generic claim should become allowable later, then, the election of species requirement of August 8, 2008 will be re-considered for withdrawal. Any non-elected dependent claims may be rejoined at that time.

The application is being forwarded to Supervisory Patent Examiner of the Art Unit for the examiner's preparation of an Office action not inconsistent with this decision. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

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ALEXANDRIA, VA 22314

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Technology Center 2100

In re Application of: IKEZAWA, et al.
Application No. 10/866,794
Filed: 15 June 2004
For: WIDE AREA DISTRIBUTED STORAGE SYSTEM FOR CHECKING ERASURE OF WORM FILE

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

This is a decision on the petition filed 7 December 2005, to make special the status of the above-identified application under terms of 37 CFR §102(d) and MPEP §708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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Paper No. 06162005

Dorsey & Whitney LLP
Intellectual Property Department
50 South Sixth Street
Minneapolis, MN 55402-1498

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
James R. Hornsby
Application No. 10/066,818
Filed: February 4, 2002
Attorney Docket No. 14002.01

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, 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 mailed on February 23, 2004. As no reply was received within the meaning of 37 CFR 1.113 and no extensions of time obtained, this application became abandoned on May 24, 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 further 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.

This application is being referred to TC 3712 for consideration of the Request for Continued Examination filed on February 24, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571)272-3217.

Karen Creasy for

Brian Hearn
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Richard B. Klar
28 East Old Country Road
Hicksville, NY 11801

SPE: R. Shukla

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/21/07

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/866,831 Patent No.: 7217528

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE 1634 **Art Unit**

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/866,855	06/12/2004	Robert Sesek	200308672-2	2782

7590 04/08/2008

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

EXAMINER	
RILEY, MARCUS T	

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
04/08/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/08/2008 KKING1
06/17/2004 LWONDIM1 00000055 082025 10866855
02 FC:1202 162.00 CR
03 FC:1201 172.00 CR

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OFFICE OF PETITIONS

In re Application of :
Mikhail REDKO et al :
Application No. 10/866,858 :
Filed: 6/14/2004 :
Attorney Docket No. MSU 4.1-642 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 2/15/2008, 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.

The above-identified application technically became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed 7/6/2007, 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 1/7/2008.

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

The instant petition does not satisfy requirement (3).

As to item (3) above, no such statement is provided. In the event it is disagreed that such a statement is present in the instant petition, Petitioner's attention is directed to 37 CFR 1.33(b), which states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An **unsigned** amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. Therefore, as the statement of unintentional delay is not signed, the petition is considered to not contain a proper statement of unintentional delay.

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

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

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Ian C. McLeod
2190 Commons Parkway
Okemos MI 48864

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SEP 2 3 2008

OFFICE OF PETITIONS

In re Application of :
Mikhail REDKO et al. :
Application No. 10/866,858 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. MSU 4.1-642 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application. The renewed petition was filed within two months of the May 9, 2008 decision on the petition filed 2-15-08.

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 July 6, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A 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 January 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 405, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 770; and (3) a proper statement of unintentional delay.

Any actions undertaken in this application from the date of the petition filed February 15, 2008 to the date of the grant of such petition are hereby ratified.

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 1624 for processing and for appropriate action by the Examiner in the normal course of business.

David Bucci
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Sabine Vrignaud et al.	:	
Application No. 10/866,864	:	DECISION ON PETITION
Filed: June 15, 2004	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number:	:	
06028.0053-00000	:	
Title: COSMETIC HAIR	:	
COMPOSITION COMPRISING TRIDECYL	:	
TRIMELLITATE AND AT LEAST ONE	:	
FIXING POLYMER	:	

This is a decision on the petition filed May 22, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

Along with the present petition, Petitioner has concurrently submitted an Information Disclosure Statement (IDS) and a plurality of foreign references. It is noted that Petitioner has placed the serial number 10/886,864 on both this petition and IDS, and as such, they have been associated with the wrong electronic file.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed September 7, 2005, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on October 8, 2005. A Notice of abandonment was mailed on April 19, 2006.

With the present petition, Petitioner has asserted that a response to the restriction requirement was timely submitted. Petitioner has included a copy of the response.

ANALYSIS

This copy of the response has been reviewed by the undersigned, and it is clear that it was originally received by the Office on October 24, 2005. It is equally clear why this amendment was not matched with the present electronic file - the wrong serial number was placed on both the petition for an extension of time and the first page of the amendment. As such, the amendment, the petition for an extension of time, and the present petition were each associated with application number 10/886,864.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

CONCLUSION

It is clear that the submission was timely received on October 24, 2005, and placed into the electronic file associated with application number 10/886,864. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is WITHDRAWN.

The petition for an extension of time and the amendment, along with the present petition, the IDS, and the foreign references will be removed from the electronic file associated with application number 10/886,864, and placed into the electronic file associated with the present application in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received on October 24, 2005 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. 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

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

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
OKADA et al.
Application No. 10/866,865
Filed: June 15, 2004
For: RESTORE METHOD FOR BACKUP

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on September 08, 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 08, 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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KAGAN BINDER, PLLC
Maple Island Building, Suite 200
221 Main Street North
Stillwater MN 55082

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OFFICE OF PETITIONS

Applicant: Benson et al.
Appl. No.: 10/866,916
Filing Date: June 14, 2004
Title: SYSTEM AND METHOD FOR CARRYING OUT LIQUID AND SUBSEQUENT DRYING TREATMENTS ON ONE OR MORE WAFERS
Attorney Docket No.: FSI0136/UD
Pub. No.: US 2005/0276909 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 January 27, 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.

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

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SEP 28 2007

OFFICE OF PETITIONS

The Sherwin-Williams Company
11 Midland Bldg. - Legal Dept.
101 Prospect Avenue, N.W.
Cleveland OH 44115

In re Application of :
Dukles, et al. :
Application No.: 10/866,917 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No: 7443 :

This is in response to the petition under 37 CFR 1.137(b) filed February 7, 2007.

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 application became abandoned for failure to respond in a timely manner to the non-final Office action mailed July 7, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on October 8, 2005. A Notice of Abandonment was mailed on January 30, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).<
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for extended delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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OFFICE OF PETITIONS

In re Application of	
Pellerin, et al.	DECISION GRANTING STATUS
Application No. 10/866,921	UNDER 37 CFR 1.47(a)
Filed: June 14, 2004	
Atty. Dkt. No.: 60,568-022	
For: APPARATUS FOR MOUNTING AND INFLATING A TIRE AND WHEEL ASSEMBLY	

This decision is in response to the petition under 37 CFR 1.47(a), filed September 19, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Chad A. Sinke has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

Date of Deposit: May 12, 2005

G. Peter Nichols, Reg. No. 34,401
Name of Applicant, Assignee or Registered Representative

Signature

PATENT
Case No. 10908/10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Du Plessis

Serial No.: 10/866,923

Filed: June 14, 2004

For: DELIVERY SYSTEM FOR HEAP BIOLEACHING

Group Art Unit: 1744

Examiner: Beisner

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)

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

Dear Sir:

Pursuant to 37 C.F.R. § 1.102(d), Applicant Petitions to Make the subject case Special. In support of its Petition, Applicant notes the following:

1. The appropriate fee under 37 C.F.R. § 1.17(h) is enclosed.

2. All the claims are directed to a single invention.

05/16/2005 SSESHE1 00000054 10866923
01 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

JUN - 1 2005

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

Mail Date: 04/21/2010

Applicant	: Ronald B. Losse	: DECISION ON REQUEST FOR
Patent Number	: 7617646	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1556** 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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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
17th Floor
Los Angeles, CA 90025-1030

In re Application of :
David A. Feinleib et al. :
Application No. 10/866,937 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 7097.P003 : 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, 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 James Y. Go on behalf of all attorneys of record who are associated with Customer No. 08791.

All attorneys/agents associated with the Customer No. 08791 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: David Feinleib
949 Scott Street
Palo Alto, CA 94301

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Foley & Lardner, LLP
P.O. Box 80278
San Diego, CA 92138-0278

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In re Application of :
Mikko Blomqvist et al. :
Application No. 10/866,943 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 037145-0601 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by customer number 30542.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 3, 2007

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No .10/866944 patent no.7230609

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

Column 5, line 18?

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE 2629 **Art Unit**

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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington, DC 20036-5339

Mail Date: 04/21/2010

Applicant	: Toshio Inoue	: DECISION ON REQUEST FOR
Patent Number	: 7620188	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/866,986	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1555** 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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VALLEY FORGE PA 19482-0980

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OFFICE OF PETITIONS

In re Application of	:	
Edward L. Morton, et al.	:	
Application No. 10/866,999	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LPC-372US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 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 3749 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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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
David Hasler et al. :
Application No. 10/867,011 : NOTICE
Filed: June 15, 2004 :
Attorney Docket No. 031211-085 :

This is a notice regarding your request filed, August 8, 2008, for loss of entitlement to claim small entity status, which is being treated as an 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 JoAnne Burke at (571)272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE
AUG 08 2008
PATENT & TRADEMARK OFFICE

2008 AUG 11 PM 4:13

IFW

Patent

Attorney's Docket No. 1031211-000085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

David Hasler et al.

Application No.: 10/867,011

Filed: June 15, 2004

For: COLOR MANAGEMENT SYSTEM USING DISTRIBUTED PROFILES FOR COLOR PRINTING SYSTEMS

MAIL STOP: Post Allowance

Group Art Unit: 2625

Examiner: Tommy D Lee

Confirmation No.: 3125

RECEIVED

AUG 15 2008

OFFICE OF PETITIONS

NOTIFICATION UNDER 37 C.F.R. § 1.27(g)(2)
OF LOSS OF ENTITLEMENT TO CLAIM SMALL ENTITY STATUS

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

Sir:

Payment of reduced fees based upon applicants' status as a small entity is no longer appropriate. Therefore the following fees should have been paid at the large entity rate. The undersigned is a party authorized to sign under 37 C.F.R. § 1.33(b).

If it is believed that a telephone conference with the undersigned would expedite consideration of this paper, please call on the number below.

Action Requiring Fee	Amount Paid (as Small Entity)	Date Fee Paid as Small Entity	Amount Due (as Large Entity)	Amount Due
Issue Fee	$ 720.00	06/19/2004	$1,440.00	$ 720.00
Total Amount Due	**$ 760.00**	**n/a**	**$1,440.00**	**$ 720.00**

Please charge $720.00 to Deposit Account No. 02-4800 for the fee due. A duplicate of this paper is attached.

08/12/2008 DALLEN 00000012 024800 10867011
01 FC:1461 720.00 DA

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 8, 2008

By: _____
Patrick C. Keane
Registration No. 32,858

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

AUG 08 2008
PATENT & TRADEMARK OFFICE

Patent
Attorney's Docket No. 1031211-000085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

David Hasler et al.

Application No.: 10/867,011

Filed: June 15, 2004

For: COLOR MANAGEMENT SYSTEM USING DISTRIBUTED PROFILES FOR COLOR PRINTING SYSTEMS

MAIL STOP: Post Allowance

Group Art Unit: 2625

Examiner: Tommy D Lee

Confirmation No.: 3125

RECEIVED
AUG 15 2008
OFFICE OF PETITIONS

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Alexandria, VA 22313-1450

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Total Amount Due	**$ 760.00**	**n/a**	**$1,440.00**	**$ 720.00**

Please charge $720.00 to Deposit Account No. 02-4800 for the fee due. A duplicate of this paper is attached.

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Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 8, 2008

By: _____
Patrick C. Keane
Registration No. 32,858

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

OIPE
AUG 08 2008
PATENT & TRADEMARK OFFICE

Patent
Attorney's Docket No. 1031211-000085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	**MAIL STOP: Post Allowance**
David Hasler et al.	Group Art Unit: 2625
Application No.: 10/867,011	Examiner: Tommy D Lee
Filed: June 15, 2004	Confirmation No.: 3125
For: COLOR MANAGEMENT SYSTEM USING DISTRIBUTED PROFILES FOR COLOR PRINTING SYSTEMS	

RECEIVED
AUG 15 2008
OFFICE OF PETITIONS

NOTIFICATION UNDER 37 C.F.R. § 1.27(g)(2)
OF LOSS OF ENTITLEMENT TO CLAIM SMALL ENTITY STATUS

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

Sir:

Payment of reduced fees based upon applicants' status as a small entity is no longer appropriate. Therefore the following fees should have been paid at the large entity rate. The undersigned is a party authorized to sign under 37 C.F.R. § 1.33(b).

If it is believed that a telephone conference with the undersigned would expedite consideration of this paper, please call on the number below.

Action Requiring Fee	Amount Paid (as Small Entity)	Date Fee Paid as Small Entity	Amount Due (as Large Entity)	Amount Due
Issue Fee	$ 720.00	06/19/2004	$1,440.00	$ 720.00
Total Amount Due	**$ 760.00**	**n/a**	**$1,440.00**	**$ 720.00**

Please charge $720.00 to Deposit Account No. 02-4800 for the fee due. A duplicate of this paper is attached.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 8, 2008

By: _____
Patrick C. Keane
Registration No. 32,858

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

10/867011 Examiner: LEE, TOMMY GAU: 2625
Inventor: HASLER , DAVID, et al Classification: 358/001.900
Status: 150 - PATENTED CASE
Title: COLOR MANAGEMENT SYSTEM USING DISTRIBUTED PROFILES FOR COLOR PRINTING SYSTEMS
Start Date: End Date:

bib_fee report (9 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
08/12/2008	35	1	1461	$720.00	08/08/2008	DA 024800
06/20/2008	122	1	1504	$300.00	06/19/2008	DA 024800
06/20/2008	123	1	8001	$30.00	06/19/2008	DA 024800
06/20/2008	124	1	2501	$720.00	06/19/2008	DA 024800
03/05/2008	21	1	1253	$1,050.00	03/04/2008	DA 024800
03/05/2008	22	1	1401	$510.00	03/04/2008	DA 024800
01/07/2005	257		8021	$40.00	01/04/2005	DA 024800
01/05/2005	51	1	2001	$395.00	01/04/2005	DA 024800
01/05/2005	52	1	2051	$65.00	01/04/2005	DA 024800

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

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Saperia, Jonathan	:	DECISION ON PETITION
Application No. 10/867,018	:	TO WITHDRAW
Filed: June 14, 2004	:	FROM RECORD
Attorney Docket No. 15777-002001	:	

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 3, 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 Denis G. Maloney on behalf of all attorneys of record. All attorneys/agents of record 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 Jonathan Saperia at the address indicated below.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

JONATHAN SAPERIA
OHIA NETWORKS, INC.
84 KETTELL PLAIN ROAD
STOW, MA 01775

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. 090204

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

SEP 16 2004

In re Application of:
ANTHONY D. KURTZ *et al.*
Serial No.: 10/867,029
Filed: June 14, 2004
Attorney Docket No.: **N0843-00121**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 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 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRACCO RESEARCH USA INC.
305- COLLEGE ROAD EAST
PRINCETON, NJ 08540

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SEP 1 1 2007

OFFICE OF PETITIONS

In re Application of :
Ernest Balestracci :
Application No. 10/867,030 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. RD97 CIP :

This is a decision on the petition, filed April 16, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed July 17, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 9, 2007. In response, on April 16, 2007, the present petition was filed.

Petitioner asserts that the Office action dated July 17, 2006 was not received.

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

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

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

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

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

The petition satisfies the above-stated requirements. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 37263 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of July 17, 2006 and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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ALEXANDRIA, VA 22313-1450
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MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Poslinski et al.	:	DECISION DISMISSING
Application No. 10/867,031	:	PETITION
Filed: June 14, 2004	:	
Attorney Docket No. 50N3467.01	:	

This is a decision on the petition filed October 7, 2004 (certificate of mailing dated October 4, 2004), requesting that the above-identified application be accorded a filing date of June 14, 2004, with Figure 4 as part of the original disclosure.

On June 14, 2004, applicants filed the above-identified application. On August 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of June 14, 2004; however, it appeared that Figure 4 described in the specification appeared to have been omitted.

In response, on October 7, 2004 (certificate of mailing dated October 4, 2004), applicants filed the present petition and authorized payment of the petition fee. Although applicants stated in the petition that they submitted a set of drawings, which include previously omitted Figure 4, no drawings were located with the petition.

Upon review of the record, Figure 4 has not been located in the official file. It is noted that the transmittal letter specifically incorporated by reference the disclosure of Application No. 09/630,576, filed August 3, 2000, now Patent No. 6,782,056, issued on August 24, 2004.

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).

Obviously, in view of the incorporation by reference of Application No. 09/630,576, the drawing of Figure 4 is not new matter if it was a part of the disclosure of Application No. 09/630,576. **If applicants desire that Figure 4 be added to the application, an amendment and a copy of Figure 4 should be filed prior to the first action on the merits, which will be considered by the examiner.**

Accordingly, the Notice mailed on August 5, 2004, was correct in stating that Figure 4 described in the specification appeared to have been omitted. Therefore, the requirement for the omitted figure was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The Office of Initial Patent Examination is directed to process the application with a filing date of June 14, 2004, using the application papers filed on that date.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 08/14/06

AUG 2 1 2006

TECHNOLOGY CENTER 2800

AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

In re Application of:
RANGANATH, TIRUMALA et al.
Serial No.: 10/867037
Filed: June 14, 2004
Attorney Docket No.: 10040067-1

: PETITION FOR CORRECTION OF
: INVENTORSHIP
: UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed September 7, 2004 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed September 7, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name:

Jintian Zhu.

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.

Zandra V. Smith
Supervisory Patent Examiner,
Art Unit 2822

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM G. ABBATT
BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075-1238

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SEP 01 2006

OFFICE OF PETITIONS

In re Patent No. 7,004,242 :
Issue Date: February 28, 2006 :
Application No. 10/867,053 : NOTICE
Filed: June 14, 2004 :
Attorney Docket No. AHT 0102 PUS

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Kenneth Wayne Boyd	: DECISION ON REQUEST FOR
Patent Number	: 7580959	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/867,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/26/2010

Applicant	: Mukhtar A. Chinwala	: DECISION ON REQUEST FOR
Patent Number	: 7609407	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/867,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1535** 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

PRO-TECHTOR INTERNATIONAL
20775 NORADA COURT
SARATOGA, CA 95070-3018

In re Application of :
Ho Hsien Chen et al :
Application No. 10/867,064 : DECISION GRANTING PETITION
Filed: June 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1891016 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application. This is also a decision on the "Amendment to Petition to Revive Application," filed April 25, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee's name on Part B - Fee(s) Transmittal.

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

The request under 37 CFR 3.81(b) is **DISMISSED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 17, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed December 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee of $700 and the publication fee of $300; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

As to the request to correct the assignee's name, the proper procedure for correction of an assignee's name on a previously filed Fee(s) Transmittal form is by way of a request under 37 CFR 3.81(b), processing fee of $130, and a request for a certificate of correction and fee of $100. *See also* Official Gazette of June 21, 2004.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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In re Application of	:	
Makansi, Munzer	:	
Application No. 10/867,069	:	ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. 821311-1050	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant. 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 3752 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Mail Date: 04/21/2010

Applicant	: Abdul G. Akram	: DECISION ON REQUEST FOR
Patent Number	: 7640531	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/867,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1063** 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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25 MAY 2006

JAMES ALBERT WARD
6924 CAMINO PACHECO
SAN DIEGO CA 92111

In re Application of
SOTO, ALEXANDER. et al.
Application No. 10/867,107
Filed: June 14, 2004
For: **CONVERTING SIGNALS IN PASSIVE OPTICAL NETWORKS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 20, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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KLEIN, O'NEILL & SINGH
2 PARK PLAZA
SUITE 510
IRVINE CA 92614

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of
White, et al.
Application No. 10/867,113
Filed: June 14, 2004
Attorney Docket No. QE1084.US

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 4, 2004, requesting, in effect, that the application be accorded a filing date of June 14, 2004, with a drawing of Figure 1H as a part of the original disclosure of the application.

The petition is **DISMISSED**.

The application was filed on June 14, 2004. However, on August 4, 2004,the Office of Initial Patent Examination mailed a notice stating that the application had been accorded a filing date of June 14, 2004, but advising applicants that a drawing of Figure 1H described in the specification appeared to have been omitted.

In response, the present petition was filed wherein applicants argue that Figure 1H does not contain new matter.

Whether the drawing filed with the petition contains new matter is not the issue. Either the drawing was present in the Office on the filing date of the application or it was not. If it was not present on the filing date, it cannot be considered a part of the original disclosure of the application. Applicants do not allege in the petition that Figure 1H was present in the Office on June 14, 2004, and a review of the file confirms that Figure 1H was not present on June 14, 2004. Therefore, the application cannot be accorded the June 14, 2004 filing date with the drawing of Figure 1H as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Of course, applicants may submit the drawing of Figure 1H as an amendment to the drawings in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 14, 2004, and indication in Office records that 10 sheets of drawings were present on filing.

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 pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES CA 90071-1448

In re Application of :
GILES :
Application No. 10/867,115 : DECISION ON PETITION
Filed: June 14, 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 November 17, 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, "patent application file was transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LARRY D. JOHNSON**
P.O. BOX 470277
CLEBRATION, FL 34747

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Saez et al.	:	
Application No. 10/867,138	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 048782/279295	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/478,886, filed June 16, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/478,886, which was filed on June 16, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any 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 2673 for appropriate action on the amendment submitted December 21, 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. 60/478,886.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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CHARLOTTE, NC 282280-4000

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OFFICE OF PETITIONS

In re Application of :
Manuel SAEZ, et al :
Application No. 10/867,138 : DECISION ON PETITION
Filed: August 5, 2005 : TO WITHDRAW
Attorney Docket No. 048782/279295 : 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 29, 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, Alston & Bird no longer represents Humanscale Corporation. expired, does not meet any of the conditions set forth in 37 CFR 10.40, since Assignee has not properly intervened.

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: HUMANSCALE CORP.
ATTN : PATRICK J. HOEFFNER, ESQ.
11 EAST 26TH STREET
8TH FLOOR
NEW YORK, NY 10010

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET,
SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of :
Manuel SAEZ, et al :
Application No. 10/867,138 :
Filed: June 14, 2004 :
Attorney Docket No. 048782/279295 :

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 December 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Alton & Bird LLP, has been revoked by the assignee of the patent application on February 7, 2008. 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: HUMANSCALE CORP.
ATTN : PATRICK J. HOEFFNER, ESQ.
11 EAST 26TH STREET
8TH FLOOR
NEW YORK, NY 10010

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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AUG 20 2008

In re Application of :
KOSMYNA, et al. :
Application No. 10/867,145 : DECISION GRANTING PETITION
Filed: June 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3030-75403 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on May 13, 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]

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, the signature of Mr. Richard B. Lazarus 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 in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 3754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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Squire, Sanders & Dempsey, LLP
Patent Department
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

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OFFICE OF PETITIONS

In re Application of	:	
Tony Miranz	:	
Application No. 10/867,155	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO WITHDRAW
Attorney Docket No. 63875.00002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 2005.

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

A review of the file record indicates that the power of attorney to Vidya R. Bhakar and all attorneys/agents of record have been revoked by the assignee of the patent application on November 24, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Shemwell Mahamedi, LLP
4880 Stevens Creek Boulevard
Suite 201
San Jose, CA 95129-1034

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OFFICE OF PETITIONS

WILMER CUTLER PICKERING
HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

In re Application of :
Riley, et al. :
Application No.: 10/867,158 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No.: **286428.129US2** :

This a decision on the "Petition for Submission of Formal Drawings Prior to Publication of Application" filed December 8, 2004.

The petition is dismissed as moot.

The instant petition requests that the drawings filed on December 8, 2004, replace those filed with the original application and that this request be effected prior to the publication of the application. The Patent and Trademark Office records indicate that the application was published on April 7, 2005, with the originally filed drawings, therefore; the relief requested by the instant petition cannot be granted. The petition is dismissed as moot, accordingly.

Applicant may request republication of the application, pursuant to 37 CFR 1.221, with the drawings filed December 8, 2004,

The application file will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/867,159	06/14/04	Riley	286428.13OUS2

CONFIRMATION NO. 3814

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Stret

Boston, MA 02109

Date Mailed: April 7, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed November 19, 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.

Kaletus King
Pre Grant Publication

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Patrick O'Shea
O'Shea, Getz & Kosakowski, P.C.
1500 Main Street
Suite 912
Springfield MA 01115

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OFFICE OF PETITIONS

In re Application of
Mirko Lehmann et al.
Application No. 10/867,177
Filed: June 14, 2004
Attorney Docket Number: Micronas.7673
Title: APPARATUS AND METHOD FOR DETERMINING A CHEMICAL ELEMENT

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

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on July 19, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 16, 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 November 17, 2004. A Notice of Abandonment was mailed on May 16, 2005.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being

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.

construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, the basic filing fee, the fee associated with the filing of a specification in a language other than English, a declaration, the fee associated with the late submission of the same, a translation of the specification, an amendment, and a statement which is being interpreted as the proper statement of unintentional delay.

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

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.

It is noted in passing that the declaration Petitioner has submitted with this petition cannot be accepted, as it contains non-initialed and non-dated changes by inventor Lehmann[2].

The Change of Correspondence Address has been entered and made of record.

Paul Shanoski

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

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

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OFFICE OF PETITIONS

Baker & Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204

In re Application of :

Andrew B. Cizmar et al. :
Application No. 10/867,192 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. FDL0003.01 : 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 May 15, 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 Eric J. Groen 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) a proper 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Andrew B. Cizmar**
8250 Lakeshore Tr. East Drive
#313
Indianapolis, IN 46250

cc: **FDL**
c/o Francis W. Ritchie
1216 Appletree Lane
P.O. Box 606
Kokomo, IN 46903-0606

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MICHAEL W. STARKWEATHER
9035 S 1300 E. SUITE 200
SANDY UT 84094

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,056,198 :
Issue Date: June 6, 2006 :
Application No. 10/867,196 : NOTICE
Filed: June 14, 2004 :
Attorney Docket No. 3016.2.6 :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

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

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

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

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

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

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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MICHAEL W. STARKWEATHER
9035 S 1300 E. SUITE 200
SANDY UT 84094

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FEB 0 1 2010

In re Patent No. 7,056,198	:	
Issue Date: June 6, 2006	:	
Application No. 10/867,196	:	NOTICE
Filed: June 14, 2004	:	
Attorney Docket No. 3016.2.6	:	

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

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Jon K. West et al.	:	
Application No. 10/867,205	:	DECISION ON PETITION
Filed: June 15, 2004	:	TO WITHDRAW
Attorney Docket No. 42691-2064.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 28, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Alex Chartove and all attorneys/agents of record have been revoked by the assignee of the patent application on June 28, 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: Proskauer Rose, LLP
1001 Pennsylvania Avenue, N.W.
Suite 400 South
Washington, DC 20004

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United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
3000 K STREET, SUITE 500
WASHINGTON, DC 20007

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Yasuyuki Enomoto et al :
Application No. 10/867,207 : DECISION GRANTING PETITION
Filed: June 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01691-0511 :

This is a decision on the petition, filed July 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.[1]

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

Telephone inquiries should be directed to Frances Hicks at (571) 272-3218.

This matter is being referred to Technology Center AU 3745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Brian Hearn
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\867207.wpd

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[1] A Notice of Withdrawal from Issue by the Director of Technology Center 3700 was mailed on July 24, 2006. However, while the Director has the authority to withdraw an application from issue under 37 CFR 1.313(b), the authority to withdraw an application from issue under 37 CFR 1.313(c) is within the jurisdiction of the Office of Petitions. Accordingly, the Notice mailed on July 24, 2006 is hereby vacated.

[2] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that 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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CERAMATEC, INC.
2425 SOUTH 900 WEST
SALT LAKE CITY, UT 84119

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
Kieran Murphy, et al. :
Application No. 10/867,215 : DECISION GRANTING PETITION
Filed: June 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 331202.00020 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed July 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding 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 3763 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 1, 2008

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No 10/867222patent no7190532

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All changes apply

/Ricky Mack/ — **SPE**

2873 — **Art Unit**

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Matthew R. Freund	: DECISION ON REQUEST FOR
Patent Number	: 7594356	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/867,228	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **75** 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 : 10/21/08

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No.: 10867230 Patent No.: 7216689 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.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE Jessica Ward Art Unit 1793

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/08

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No.: 10867230 Patent No.: 7216689 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.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

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_____

SPE Jessica Ward Art Unit 1793

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FORTKORT GRETHER & KELTON LLP
8911 N. CAPITAL OF TEXAS HIGHWAY
SUITE 3200
AUSTIN, TX 78759

MAIL

DEC 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Richard W. Ibbotson, et al.
Application No. 10/867231
Filed: June 14, 2004
For: A VOICE XML NETWORK GATEWAY

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on September 27, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents listed in the request have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Jennifer Covell
SOLEO Communications
Willowbrook Office Park
300 Willowbrook Dr.
Fairport, New York 14450

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of :
Ascher, et al. :
Application No. 10/867,232 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 31092B : 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, 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, "file transfer", does 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: D. Peter Hochberg Co., LPA
1940 East 6h Street
6th Floor
Cleveland, OH 44114-2294

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United States Patent and Trademark Office
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EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of :
Gerd Ascher, et al. :
Application No. 10/867,232 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. G-31092B : 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, 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 John D. Thallemer on behalf of all attorneys of record who are associated with customer No. 01095.

All attorneys/agents associated with the Customer Number 01095 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 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: GERD ASCHER
6250 KUNDL, AUSTRIA
AUSTRIA

cc: D. PETER HOCHBERG CO., LPA
1940 EAST 6TH STREET
6TH FLOOR
CLEVELAND, OH 44114-2294

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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of
Becker et al.
Application No. 10/867,252
Filed: June 14, 2004
Attorney Docket No. AUS920010288US2

DECISION ON PETITION

This is a decision on the petition, filed May 28, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to file a response to a non final Office action , which was mailed on June 26, 2007. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 27, 2007.

Petitioner asserts that the Office action dated June 26, 2007 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Specifically, the petition fails to meet requirements 1 and 3.

As to item 1, the statements provided by attorney Glanzman and paralegal Gamez has failed to establish that the docketing system was sufficiently reliable.

As to item 3, a review of the docket records shows that petitioner has failed to provide master docket records for the firm. The document presented does not appear to be a master docket, but appears to be a case history report for the above application.

Accordingly, absent the required evidence to establish nonreceipt of the non-final Office action of June 26, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Becker et al. :
Application No. 10/867,252 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. AUS920010288US2 :

This is a decision on the petition, filed May 28, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to file a response to a non final Office action , which was mailed on June 26, 2007. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 27, 2007.

Petitioner asserts that the Office action dated June 26, 2007 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Specifically, the petition fails to meet requirements 1 and 3.

As to item 1, the statements provided by attorney Glanzman and paralegal Gamez has failed to establish that the docketing system was sufficiently reliable.

As to item 3, a review of the docket records shows that petitioner has failed to provide master docket records for the firm. The document presented does not appear to be a master docket, but appears to be a case history report for the above application.

Accordingly, absent the required evidence to establish nonreceipt of the non-final Office action of June 26, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	**(571) 273-8300** Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

COPY MAILED
SEP 22 2008

In re Application of :
Becker et al. :
Application No. 10/867,252 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. AUS920010288US2 :

This is a decision on the renewed petition, filed August 8, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to file a response to a non final Office action , which was mailed on June 26, 2007. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 27, 2007. A petition under 37 CFR 1.181 was dismissed on June 18, 2008.

Petitioner asserts that the Office action dated June 26, 2007 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Specifically, the petition fails to meet requirement 3.

As to item 3, a review of the docket records shows that petitioner has failed to provide master docket records for the firm. On renewed petition, petitioner has presented two snapshots of case history for the above application. It is further noted practitioner does not state that a master docket does not exist. The Office requires a copy of the master docket for the **firm** not just for this specific application. Pursuant to MPEP 711.03 (c) a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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DEC 16 2008

OFFICE OF PETITIONS

In re Application of
Becker et al.
Application No. 10/867,252
Filed: June 14, 2004
Attorney Docket No. AUS920010288US2

DECISION ON PETITION

This is a decision on the renewed petition, filed November 10, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a non final Office action , which was mailed on June 26, 2007. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 27, 2007.

Petitioner asserts that the Office action dated June 26, 2007 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. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application

file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3625 for re-mailing the Office action of June 26, 2007. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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P.O. BOX 2550
SALT LAKE CITY UT 84110

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Hembree et al.	:	DECISION ON PETITION
Application No. 10/867,257	:	
Filed: June 14, 2004	:	
Atty Docket No. 2269-6101US	:	
(03-0907.00/U	:	

This is in response to the PETITION UNDER 37 CFR § 1.181(a) FOR WITHDRAWAL OF HOLDING OF ABANDONMENT filed May 8, 2008.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee[1] within three months of the mailing date, October 11, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. On January 9, 2008, applicants filed a Request for Continued Examination (RCE), the RCE fee and an Information Disclosure Statement. However, the RCE was not accepted[2] as it was not proper, in that, it was not signed. No proper reply filed, the above-identified application became abandoned on January 12, 2008. A courtesy Notice of Abandonment was mailed on May 2, 2008.

In response, applicants timely filed the instant petition. Applicants maintain that an RCE was prepared and signed by attorney Gunn and an electronic copy of the RCE was timely filed using the electronic filing system on January 9, 2008 by

[1] There was no distinct but concurrent requirement for corrected drawings.
[2] Office records indicate that the RCE fee was refunded.

paralegal Johnson. In support thereof, applicants submit the affidavits of attorney Gunn and paralegal Johnson, and a copy of the acknowledgment receipt for the electronic filing.

Applicants' argument is not persuasive. There is no dispute that an RCE was electronically filed in the Office on January 9, 2008. The RCE is present in the record with a date of receipt of January 9, 2008. However, the January 9, 2008 RCE is not as maintained by applicants signed. Further, on April 23, 2008, applicants filed a signed and completed RCE. Accompanying this resubmission was a letter acknowledging that the RCE filed January 9, 2008 was "submitted unsigned due to an electronic filing error." No evidence submitted on instant petition overcomes the evidence of record that a proper reply to the Notice of Allowance was not timely filed. The proper RCE was submitted outside of the period for reply. Applicants are advised that the RCE filed April 23, 2008 (outside of the period for reply) cannot, as requested by applicants, be treated as if properly signed and filed on January 9, 2008. To avoid abandonment, applicants had to submit a proper reply within the three-month nonextendable period for reply. Thus, it is concluded that the application properly became abandoned and withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate. Applicants are reminded that payment of the issue fee (and publication fee) is a condition of reviving an application abandoned for failure to pay the issue fee (and publication fee). See 35 U.S.C. 41(a)(7) and 151; MPEP 711.03(c). Thus, even if applicants continue to proceed with the RCE, the issue fee and publication fee must be submitted on petition under 37 CFR 1.137. Then, after revival, in response to any new Notice of Allowance, applicants are to timely request that the Office apply the issue fee and publication fee submitted on petition.

Further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning 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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P.O. BOX 2250
SALT LAKE CITY UT 84110

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NOV 12 2008

OFFICE OF PETITIONS

In re Application of :
David R. HEMBREE, et al :
Application No. 10/867,257 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 2269-6101US (03-0907.00/U) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 11, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed October 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; (3) a Request for Continued Examination and (4) the required statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing.

Thurman Page
Petitions Examiner
Office of Petitions

cc: JEFFREY GUNN
230 SOUTH 500 EAST, SUITE 300
SALT LAKE, UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OCT 14 2004

In re Application of	:	
Alvin S. Blum	:	
Serial No. 10/867,263	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO MAKE SPECIAL
For: WORLD GLOVE WITH DETAIL DISPLAY 2	:	

Applicant's petition, filed June 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. Rollins-Cross, Director
Technology Center 3700

Alvin S. Blum
2350 Delmar Place
Fort Lauderdale, FL 33301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David Byrd
1505 Rock Creek
Round Rock TX 78681

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Andrew J. KATRINECZ et al. :
Application No. 10/867,272 :
Filed: June 14, 2004 :
Attorney Docket No. BY-01701USCON :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the issue and publication fee in a timely manner in reply to the Notice of Allowance/Allowability mailed June 13, 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 14, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3). The form PTOL-85b and the statement required in item (3) has not been signed by all of the applicants for patent, an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71, or a patent attorney or patent agent registered to practice before the office.

Application No. 10/867,272

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 David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

DATE: 8/27/07 APPLICATION NUMBER: 10/867,272

DOC CODE: Pet Dec. Pubs DOC DATE: 9/28/05

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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David Byrd
1505 Rock Creek
Round Rock TX 78681

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AUG 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Andrew J. Katrinecz et al. :
Application No. 10/867,272 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. BY-01701USCON :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2007 with supplemental information provided April 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 September 13, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 13, 2006. Accordingly, the date of abandonment of this application is September 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00 and publication fee of $300.00, (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

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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MICHAEL BLAINE BROOKS, P.C.
P.O. BOX 1630
SIMI VALLEY, CA 93062

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MAY 0 9 2007

OFFICE OF PETITIONS

In re Application of
William GROSS
Application No. 10/867,276
Filed: June 14, 2004
Attorney Docket No. IDEALAB.050A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 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 Michael B. Brooks on behalf of all attorneys of record who are associated with customer No. 24507.

All attorneys/agents associated with the Customer Number 24507 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 or the 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 Diane Goodwyn at 571-272-6735.

There are no Office actions pending at the present time.

April Wise
Petitions Examiner
Office of Petitions

cc: ANDREW S. NAGLESTAD
130 W. UNION ST.
PASADENA, CA 91103

Pet. Dec.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: §
Murray Ginsberg §
§
Serial No.: N/A §
§
Filed: §
§ Attorney Docket No. GINS004
Title: Epoxy Composition and Method

PETITION TO MAKE APPLICATION SPECIAL UNDER 37 CFR 1.102(C)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This is a request for expedited examination of a utility patent under 37 CFR 1.102(c).

Murray Ginsberg, the sole inventor of **Epoxy Composition and Method**, is currently seventy-eight (78) years of age. According to the Patent Examiner's manual, an application can be granted special status and therefore examined in a expedited nature under 37 CFR 1.102(c) for any inventor over the age of sixty-five (65). We hereby request expedited examination of patent application.

This petition is supported by the attached declaration by the inventor.

SN 10/867 293

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

11/16/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-1450
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SEP 22 2005

TECHNOLOGY CENTER 3600

Henri Duong
316 ½ E. Glendon Way
Alhambra, CA 91801

In re application of : **DECISION ON PETITION**
Henri Duong : **TO MAKE SPECIAL**
Application No. 10/867,316 : **(ENVIRONMENTAL QUALITY)**
Filed: June 15, 2004 :

For: ANESTHETIC BULLETS USING FOR GUNS AND ANESTHETIC WEAPONS

This is a decision on the petition filed June 6, 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 V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicant's statement of "restoration of basic life-sustaining during military mission" is 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, these statements are lacking in that they fail to explain, and establish for the record, how applicant's invention contributes to the maintenance or restoration of the basic life-sustaining elements--air, water and soil.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 9/9/05

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HENRI DUONG
316 ½ E GLENDON WAY
ALHAMBRA, CA 91801

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Henri Duong	:	
Application No. 10/867,330	:	DECISION ON PETITION
Filed: June 15, 2004	:	TO MAKE SPECIAL UNDER
For: All kinds of printing materials be recorded in all kinds of recordable materials for sale	:	37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed October 12, 2004, to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

Petitioner fails to indicate on what grounds he is petitioning to make special, i.e., manufacture, infringement, health, age, etc., as set forth in MPEP 708.02 Sections I-XII.[1] Petitions to make special are only accorded to applications meeting the requirements outlined in one of the categories set forth in MPEP 708.02. The Office is unable to review the instant petition on its merits. Therefore, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon 571-272-3220.

[1] Rev. 3, Aug. 2005

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2655 for action in its regular turn.

Amelia Au
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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Sundaram RAMANI et al.	:	
Application No. 10/867,338	:	DECISION ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. 307790.01	:	

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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 13, 2008, which set a shortened statutory period for reply of three (3) months. 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of May 13, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 2432 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Prince et al	:	
Application No. 10/867,342	:	DECISION GRANTING PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ADDTE.0107	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2007 and supplemented on September 10, 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 of July 17, 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 3722 to consider the reply of July 17, 2007.

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
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DANIEL D. CHAPMAN
JACKSON WALKER LLP
112 E PECAN STREET, SUITE 2100
SAN ANTONIO, TX 78205

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Darrin Wegener	:	
Application No. 10/867,360	:	NOTICE
Filed: June 14, 2004	:	
Attorney Docket No. P-65.74 (uti)	:	

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.**[1]

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 3611 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Applicant submitted $365 for the deficiency due for the filing fee. However, the correct fee deficiency is actually $385 ($770-$385=$385). The balance due of $20 will be charged to Deposit Account No. 07-2400.

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JUN -6 2007

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD, MA 01863

In re Application of	:
Jeffrey S. Hrkach	:
Serial No.: 10/867,375	: PETITION DECISION
Filed: June 14, 2004	:
Attorney Docket No.: 2685.3000 US1	:

This is in response to the petition under 37 CFR 1.144, filed March 29, 2007, 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 14, 2004, and contained claims 1-28. In a first Office action, mailed April 12, 2006, the examiner set forth the result of a telephone restriction requirement, as follows:

Group I – Claims 1-17 and 27-28, drawn to a method of delivery of an agent to the pulmonary system; and
Group II – Claims 18-26, drawn to a method of delivery using an inhaler.

An election of species was also required for Group I with regard to the condition being treated.

The examiner reasoned that the inventions were unrelated and distinct since the claims of Group I are drawn to a method of delivery not requiring the use of a specific inhalation device, whereas Group II is directed to a method of delivery using a specific inhaler device. The examiner argued that search of both inventions would be an undue burden on the Office. Applicant telephonically elected Group I and an asthmatic patient (as the species), with traverse. The examiner then set forth various rejections under 35 U.S.C. 112, second paragraph, for indefiniteness; 35 U.S.C. 102(b) for anticipation; and under 35 U.S.C. 103(a) as unpatentable over various references, both singly and in combination. A rejection for obvious double patenting was also set forth.

Applicant replied on July 10, 2006, canceling claims 27-28, amending claims 1-26 and adding claims 29-40 to a more specific embodiment of Group I. Applicant argued the restriction requirement noting that claim 18 is dependent on claim 1, is also drawn to a method and limits a

specific portion of claim 1, the inhaler. Applicant argues that the examiner has misapplied M.P.E.P. 806.04 which is directed to restriction between two species which is not the case here. Applicant further disputed the argument that the claims were so different or distinct as to create a burden for the Office. Applicant responded to all of the rejections set forth appropriately.

The examiner mailed a new Office action to applicant on October 4, 2006, acknowledging the election of Group I and the species, but maintaining the requirement and making it Final. The examiner argued that the claims of Group II define a different inhaler product which would not be included in a search of the claims of Group I. The examiner then maintained rejections under 35 U.S.C. 112, second paragraph, for indefiniteness, 35 U.S.C. 102(b) for anticipation and under 35 U.S.C. 103(a) for unpatentability and also for obvious double patenting. The Office action was made Final.

Applicant filed an amendment after Final rejection and a Notice of Appeal on January 4, 2007.

The examiner withdrew the Final Office action and mailed a new non-Final Office action to applicant on January 29, 2007. The restriction requirement was not further mentioned. The claims were rejected under 35 U.S.C. 112, first paragraph, for the first time for lack of enablement and written description. Rejections under 35 U.S.C. 112, second paragraph, 35 U.S.C. 102(b) and for obvious double patenting were maintained

This petition was filed on March 29, 2007, traversing the restriction requirement as being in error. A response to the Office action was made on April 27, 2007, but has not been acted on by the examiner.

DISCUSSION

Applicant's petition is directed only to the restriction between Groups I and II, both being directed to methods of delivering an agent to the pulmonary system. Claim 18 (and claims 19-21 and 24-26 dependent on claim 18) are all directed to an inhaler structure. (Claim 22 and dependent claim 23 are not directed to an inhaler structure and depend directly on claim 1 and should not have been included with the claims of Group II.) Claim 18 is dependent on claim 1 which provides "administering a particle mass comprising an agent **from an inhaler**..." That claim 1 does not have any specific inhaler structure does not mean that an inhaler is not present since the claim broadly identifies the presence of an inhaler. Claim 18 further defines the structure of an inhaler which can be used with the agent. Clearly it is not the only inhaler which can be used with the agent since claim 1 sets no specific limits on the inhaler to be used. However claim 18 depends from and further limits claim 1 in a manner which prohibits restriction between the two since they are both directed to the same invention. The restriction requirement is withdrawn.

DECISION

The petition is **GRANTED.** All claims will be examined.

The application will be forwarded to the examiner for consideration of applicant's reply filed April 27, 2007, 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.

Bruce M. Kisliuk.
Director, Technology Center 1600

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J. Michael Neary
53939 Pine Grove Road
LaPine OR 97739

2/15/08

In re Application of:
Munk, Clayton L. et al
Serial No. 10/867,398
Filed: Jun. 14, 2004
Docket: 95-317D
Title:
DETERMINANT WING ASSEMBLY

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on Sep. 11, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Jun. 30, 2006, and that non-elected claims 73-76 be rejoined and examined on the merits. Claims 68-72 were elected and examined and claims 73-76 were withdrawn from consideration due to non-elected invention. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement mailed on Jun. 30, 2006 is hereby withdrawn. Claims 73-76 will be rejoined with the elected invention as set forth in claims 68-72. The examiner has been directed to issue an Office action to rejoin and treat the non-elected claims 73-76 on the merits as soon as possible.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3726 for further consideration of non-elected claims 73-76 prior to further appeal proceeding. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

ROBERT C. FABER
OSTROLENK FABER GERB & SOFFEN LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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MAY 04 2010

OFFICE OF PETITIONS

In re Application of
Ormonde G. Durham III et al :
Application No. 10/867,404 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No.

This is a decision on the petition, filed April 30, 2010 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 20, 2010 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 2121 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).

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Morgan, Lewis & Bockius, LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco, CA 94105

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert K. DiNello et al.	:	
Application No. 10/867,420	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO WITHDRAW
Attorney Docket No. RLA0006-202-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Jeffry S. Mann and all attorneys/agents of record have been revoked by the assignee of the patent application on June 28, 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: Global Patent Group – RLA
Mr. Dennis A. Bennett
Global Patent Group, LLC
10411 Clayton Road, Suite 304
St. Louis, MO 63138

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Harold M. Aznoian et al	:	
Application No. 10/867,428	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO WITHDRAW
Attorney Docket No. B0751/7029	:	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 7, 2005 and resubmitted on February 28, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reason for withdrawal was not indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

This application is being referred to Technology Center AU 3731.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

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POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Tomich, et al. :
Application No. 10/867,431 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 30917-CIP1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, 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 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 7, 2009. Accordingly, the date of abandonment of this application is March 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center A.U. 1646 for consideration of the amendment under 37 CFR 1.312.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 23 2005

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of :
Robert E. Dudley et al :
Serial No.: 10/867,435 : SUSPENSION OF ACTION
Filed: June 14, 2004 :
Attorney Docket No.: 04293884 :

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed September 13, 2005.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of pending litigation.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of litigation pending in the District Court in Georgia involving two cases. No indication is given as to when the cases were filed, their status or approximate date of decision or resolution nor how any decision would affect prosecution or patentability in this application. Further it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
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Douglas A. Miro
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

Mail Date: 04/21/2010

Applicant	: Robert F. Speyer	: DECISION ON REQUEST FOR
Patent Number	: 7592279	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/867,442	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 23 2005

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MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:
Robert E. Dudley et al	:
Serial No.: 10/867,445	: SUSPENSION OF ACTION
Filed: June 14, 2004	:
Attorney Docket No.: 04293826	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed September 13, 2005.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of pending litigation.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of litigation pending in the District Court in Georgia involving two cases. No indication is given as to when the cases were filed, their status or approximate date of decision or resolution nor how any decision would affect prosecution or patentability in this application. Further it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of :
Elliot Altman :
Application No. 10/867,460 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No.: 235.00010102 :

This is a decision on the petition, filed May 11, 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 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1653 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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MAY 17 2006

OFFICE OF PETITIONS

GERALD SWISS FOLEY & LARDNER, LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of :
Ving Lee et al :
Application No. 10/867,465 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 045471-0125 : 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 27, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Gerald F. Swiss and the other attorneys of record has been revoked by the assignee of the patent application on December 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed February 27, 2006 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Morgan, Lewis & Bockius LLP (SF)
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

cc: Jeffry S. Mann, Ph.D., J.D.
Morgan Lewis and Bockius
One Market, Spear Street Tower
San Francisco, CA 94105

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FEB 10 2006

TECHNOLOGY CENTER 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

In re application of
Jiten Chatterji et al.
Application No. 10/867,478
Filed: June 14, 2004
For: METHODS, CEMENT COMPOSITIONS AND SUSPENDING AGENTS THEREFOR

: **DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on June 14, 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 indicating Mr. Chatterji 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: 02/08/05

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1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Stuart Ozer et al :
Application No. 10/867,485 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 14531.151.3

This is a decision on the petition, filed October 31, 2007, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 24, 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 2167 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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FEB 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Manuel SAEZ et al. :
Application No. 10/867,514 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 048782/279294 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 21, 2005 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 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.

All 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 AU 3632 for appropriate action on the amendment submitted December 21, 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. 60/478,445.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/867,514	06/14/2004	3632	1388	048782/279294	26	40	6

CONFIRMATION NO. 3346

CORRECTED FILING RECEIPT

OC000000018111977

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 02/22/2006

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)

Manuel Saez, Brooklyn, NY;
Lachezar Tsvetanov, Bridgeport, CT;
Maximo Diaz Heer, Jackson Heights, NY;

Assignment For Published Patent Application

Humanscale Corporation

Power of Attorney: The patent practitioners associated with Customer Number **00826**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,445 06/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/31/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/867,514

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Laptop holder

Preliminary Class

248

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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CHARLOTTE, NC 28280-4000

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APR 16 2008

In re Application of :
SAEZ, et al. :
Application No. 10/867,514 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. **2263/112033-01** : 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 October 29, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **ALSTON & BIRD, LLP** has been revoked by the assignee of the patent application on February 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JONES WALKER WAECHTER POITEVENT CARRERE & DENEGRE, LLP**
8555 UNITED PLAZA BOULEVARD, 5TH FLOOR
BATON ROUGE, LA 70809

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Basch & Nickerson, LLP
1777 Penfield Road
Penfield, NY 14526

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Xingwu Wang et al. :
Application No. 10/867,517 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 1008 065 301 0251 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Michael J. Nickerson and all attorneys/agents of record have been revoked by the assignee of the patent application on February 17, 2009. 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: Biophan Technologies, Inc.
15 Schoen Place
Pittsford, NY 14534

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AUG 03 2006

TECHNOLOGY CENTER 3600

PETER K. TRZYNA, ESQ.
P.O. BOX 7131
CHICAGO, IL 60680

In re application of
Greg H. Crocker
Application No. 10/867,520
Filed: June 13, 2004
For: COMPUTER SUPPORT FOR MORTGAGE LOCK OPTION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on June 05, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (D) and (E) above. Regarding item (D), after completing a review of the application file no copies of the above-noted references have been located. Regarding item (E), the petition does not include a detailed discussion of how the claimed subject matter is patentable over each of the references deemed most closely related to the subject matter encompassed by the claims.

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 for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 07/26/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JACK E EBEL
THE LAW OFFICE OF JACK E EBEL
11735 APPLEWOOD KNOLLS DR
LAKEWOOD CO 80215

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OFFICE OF PETITIONS

In re Application of	:	
Thomas B. Smith, Yale M. Preston	:	
Application No. 10/867,528	:	
Filed: June 14, 2004	:	DECISION ACCORDING STATUS
Attorney Docket No. 200302USA	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 19, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on June 14, 2004, without an executed oath or declaration. Accordingly, on August 12, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicants filed the instant petition on October 19, 2004, made timely by obtaining a five month extension of time and including a Certificate of Mailing dated October 6, 2004. Accompanying the petition is a 37 CFR 1.63 declaration signed by joint inventor Thomas B. Smith on behalf of himself and joint inventor Yale M. Preston.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a copy of a letter from attorney Stephen Gratton to Preston, dated June 12, 2004, transmitting the application papers. According to Gratoon, Preston made an oral refusal to sign the declaration during a telephone conversation on September 17, 2004.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3672 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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C/O ROYAL W. CRAIG
120 EAST BALTIMORE STREET
SUITE 800
BALTIMORE, MD 21202

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark Friedman et al	:	
Application No. 10/867,533	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO MAKE SPECIAL UNDER
For: SOFTWARE SOLUTION MANAGEMENT OF PROBLEM LOANS	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR § 1.102(d), filed November 28, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the items (B) and (C) about. As to item (B), the petition fails to indicate that some of the claims are unquestionably infringed. As to (c), the petition fails to indicate that he or she has made or caused to be made a careful and thorough search of the prior art. In view of this deficiency, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220. being referred to Technology Center AU 3624 for action on the merits commensurate with decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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FITCH EVEN TABIN & FLANNERY
120 S. LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Kinigakis et al.	:	
Application No. 10/867,534	:	ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. 82989	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 26, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Peter W. Swart	: DECISION ON REQUEST FOR
Patent Number	: 7614095	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/867,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **396** 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.:20090429

DATE : April 29, 2009

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction on Patent No.: 7,159,319

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

RoChaun Johnson
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☒ **Denied** — State the reasons for denial below.

Comments:

Applicant contends that Figure 7 has no relationship to the invention of application and requested it to be corrected; however, applicant has not suggested a better Figure and Figure 7 appears to be the best Figure.

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

SPE: Boyer D. Ashley **Art Unit** 3724

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: July 13, 2009
Patent No: 7,159,319 B2
Applicant: Huang
Issued: January 9, 2007

Request for Certificate of Correction:

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Respecting the alleged error on the title page are printed in accordance with the record. The SPE Examiner states that the Figure 7 has no relationship to the invention of application and requested it to be corrected; however, applicant has not suggested a better Figure and Figure 7 appears to be the best Figure. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

In view of the foregoing, in this matter your request is hereby denied.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Requests for Reconsideration should be accompanied by additional support (e.g. copy of amendments, post card receipts. PTOL 1449 OR 892,etc.), containing requested data or changes) and /or brief statements of facts, as requested.

RoChaun Johnson for
Mary Diggs, Supervisor
Decisions and Certificates of Correction
(703) 756-1572

CHARLES E. BAXLEY
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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NOV 16 2004

OFFICE OF PETITIONS

In re Application of :
Boris Weissman :
Application No.: 10/867,557 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No.: 328358002US1 :

This a decision on the petition filed October 14, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on June 14, 2004. On August 24, 2004, the Initial Patent Examination Division mailed a Notice of Missing Parts of Nonprovisional Application indicating that the application had been accorded a filing date, but that the application filing fee was missing and page 11 of the specification appeared to have been omitted. Relative to the omitted item, the notice allowed a non-extendable period for reply of two-months from its mailing date. The instant petition was filed on October 14, 2004 and was accompanied by the filing fee, surcharge, and the omitted page 11 of the specification.

Petitioner concedes that page 11 of the specification was not present on filing, however; petitioner argues that the application was complete on filing and entitled to a filing date of June 14, 2004, with page 11 as part of the original disclosure because application 10/867,557 incorporated by reference application 09/790,256.

In view of the incorporation by reference statement found on the application transmittal sheet, the application will retain the filing date of June 14, 2004. The examiner assigned to this application will be expected to compare page 11 as filed with the petition with the specification of application 09/790,256 to be sure page 11 does not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 14, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition 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
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 05/13/2010

Applicant	: Rami Vaittinen	: DECISION ON REQUEST FOR
Patent Number	: 7623509	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/867,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **762** 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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Foley & Lardner LLP
150 East Gilman Street
P. O. Box 1497
Madison, WI 53701-1497

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MAY 12 2005

OFFICE OF PETITIONS

In re Application of :
Jonathan Harrold, et al. :
Application No. 10/867,579 : DECISION ON PETITION
Filed: June 14, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 053694-0118

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/GB02/05388, filed November 29, 2002, set forth in the Supplemental Application Data Sheet submitted concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on June 14, 2004, and was pending at the time of filing of the instant petition. A reference to the prior-filed PCT application has been included in a Supplemental Application Data Sheet to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being forwarded to the examiner of Technology Center Art Unit 2673 for appropriate action on the amendment filed December 3, 2004, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/GB02/05388, filed November 29, 2002.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

US 20050030301A1

(19) United States

(12) Patent Application Publication (10) Pub. No.: US 2005/0030301 A1

Harrold et al. (43) Pub. Date: Feb. 10, 2005

(54) CONTROL OF OPTICAL SWITCHING APPARATUS

(75) Inventors: **Jonathan Harrold**, Warwickshire (GB); **Graham J. Woodgate**, Oxfordshire (GB)

Correspondence Address:
FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497 (US)

(73) Assignee: **Ocuity Limited**

(21) Appl. No.: 10/867,579

(22) Filed: Jun. 14, 2004

(30) Foreign Application Priority Data

Dec. 14, 2001 (GB) 0129992.4

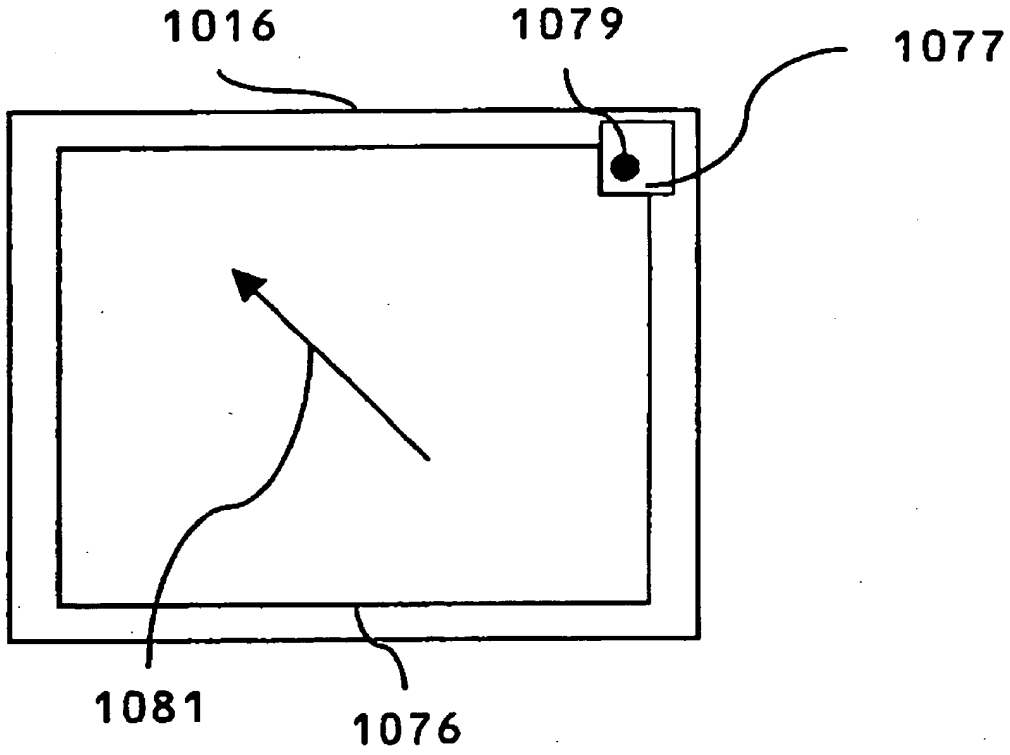
Publication Classification

(51) Int. Cl.[7] G09G 5/00

(52) U.S. Cl. 345/204

(57) ABSTRACT

Control methods and apparatus for controlling driving of switchable display devices are described. The switchable display devices may be switchable between a 2D display mode and a 3D autostereoscopic display mode. Control apparatus (**1455**) comprising a display mode module (**1465**), an image data module (**1470**), an authorisation module (**1475**), a controller (**1480**) and a driver module (**1485**) is described.



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Bib Data Sheet

CONFIRMATION NO. 2024

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/867,579	06/14/2004 RULE	345	2673	053694-0118

APPLICANTS

Jonathan Harrold, Warwickshire, UNITED KINGDOM;
Graham J. Woodgate, Oxfordshire, UNITED KINGDOM;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS *********************

UNITED KINGDOM 0129992.4 12/14/2001

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 08/11/2004

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	UNITED KINGDOM	13	30	2
35 USC 119 (a-d) conditions met: ☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged: Examiner's Signature / Initials				

ADDRESS

23524

TITLE

Control of optical switching apparatus

FILING FEE RECEIVED	
1080	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:

- ☐ All Fees
- ☐ 1.16 Fees (Filing)
- ☐ 1.17 Fees (Processing Ext. of time)
- ☐ 1.18 Fees (Issue)
- ☐ Other _____
- ☐ Credit

OIPE JC12
DEC 03 2004
PATENT & TRADEMARK OFFICE

Atty. Dkt. No. 053694-0118

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: HARROLD *et al.*

Title: CONTROL OF OPTICAL SWITCHING APPARATUS

Appl. No.: 10/867,579

Filing Date: 06/14/2004

Art Unit: 2673

MAIL STOP PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

"Express Mail" Mailing Label No.: EV602232511US
Date of Deposit: December 3, 2004

I hereby certify that these attached documents:

Petition Under 37 C.F.R. § 1.78(a)(3) for Unintentionally Delayed Priority Claim (3 pages)
Supplemental Application Data Sheet (4 pages)
Check No. 34410; $1,370.00
Return postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R.§1.10 on the date indicated above and is addressed to, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Enclosed for filing please find the above-referenced documents. Please indicate receipt of these documents by returning the attached postcard with the official Patent and Trademark Office receipt stamped thereon.

Nancy Kimball

Nancy Kimball
Foley & Lardner LLP
P. O. Box 1497
Madison, Wisconsin 53701-1497
(608) 258-4601

OIPE
DEC 03 2004
JC112
PATENT & TRADEMARK OFFICE

Atty. Dkt. No. 053694-0118

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: HARROLD *et al.*

Title: CONTROL OF OPTICAL SWITCHING APPARATUS

Appl. No.: 10/867,579

Filing Date: 06/14/2004

Art Unit: 2673

PETITION UNDER 37 C.F.R. § 1.78(a)(3) FOR UNINTENTIONALLY DELAYED PRIORITY CLAIM

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above referenced non-provisional utility application was filed with the U.S. Patent and Trademark Office (USPTO) on June 14, 2004. An incorrect claim for priority was submitted in the accompanying Application Data Sheet (ADS), and the Transmittal Letter incorrectly stated that the filing was under 37 C.F.R. § 1.53(b). In an attempt to correct the claim for priority, a supplemental ADS and a Request for Corrected Filing Receipt were filed on September 20, 2004 referencing the originally intended claim for priority. The correction was filed within the required four-month time period from National Stage commencement. The intended claim for priority was as a National Stage application of PCT/GB02/05388 filed on November 29, 2002 which claimed priority to Great Britain Patent Application No. 0129992.4 filed on December 14, 2001. Applicants unintentionally failed to realize that the corrected ADS priority claim to PCT/GB02/05388 should have been as a continuation application under 35 U.S.C. 120 rather than as a National Stage application under 35 U.S.C. 371 based on the initial filing under 37 C.F.R. § 1.53(b).

12/07/2004 MAHMED1 00000062 10867579
01 FC:1454 1370.00 OP

In response to receipt of an Updated Filing Receipt mailed on October 5, 2004, Applicants again filed a Request for Corrected Filing Receipt on October 21, 2004. Unfortunately, the Request for Corrected Filing Receipt again included the incorrect claim for priority as a National Stage of PCT/GB02/05388. A Notice Regarding Benefit/Priority Claim(s) was received by Applicants on November 8, 2004. Over the time period between November 8 and the filing of the present petition, Applicants placed approximately a dozen phone calls to the Office of Initial Patent Examination (OIPE) in an attempt to determine how to correct the claim for priority. However, Applicants were unable to speak with anyone at OIPE until December 2, 2004. As a result of the conversation with Mr. Tom Koontz at OIPE on December 2, 2004, Applicants were directed to talk with several individuals at PCT Legal. In the resulting phone conference with Mr. Leonard Smith of PCT Legal, Applicants learned that the claim for priority should have been as a Continuation of PCT/GB02/05388 under 35 U.S.C. 120 and not as a National Stage application. Thus, the delay in correcting the claim for priority between the due date of October 14, 2004 and the present date was entirely unintentional on the part of the Applicant.

Applicants, therefore, file the present Petition to correct the unintentionally delayed claim for priority of the above referenced U.S. Patent application as a continuation of PCT/GB02/05388. PCT/GB02/05388 claims priority to Great Britain Patent Application No. 0129992.4 filed on December 14, 2001.

As specified in MPEP § 201.11 and required by 37 C.F.R. § 1.78(a)(3), enclosed please find:

(a) a Supplemental Application Data Sheet that includes the correct priority claim;

(b) a check in the amount of $1370.00 as required under 37 C.F.R. § 1.117(t); and

(c) the required statement above that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350.

Please direct all correspondence to the attorney or agent at the correspondence address indicated below with Customer Number 23524.

Respectfully submitted,

Date December 3, 2004

By Callie M Bell

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4263
Facsimile: (608) 258-4258

Callie M. Bell
Attorney for Applicants
Registration No. 54,989

OIPE
DEC 03 2004
PATENT & TRADEMARK OFFICE JC12

Supplemental Application Data Sheet

Application Information

Application number::	**10/867,579**
Filing Date::	**06/14/2004**
Application Type::	Regular
Subject Matter::	Utility
Suggested classification::	
Suggested Group Art Unit::	
CD-ROM or CD-R?::	None
Computer Readable Form (CRF)?::	No
Title::	CONTROL OF OPTICAL SWITCHING APPARATUS
Attorney Docket Number::	053694-0118
Request for Early Publication?::	No
Request for Non-Publication?::	No
Suggested Drawing Figure::	1
Total Drawing Sheets::	13
Small Entity?::	No
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	**Inventor**
Primary Citizenship Country::	**Great Britain**
Status::	**Full Capacity**
Given Name::	**Jonathan**

Family Name::	HARROLD
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Country of Residence::	United Kingdom
Street of mailing address::	8 Robins Grove Warwick Warwickshire CV34 6RF
Country of mailing address::	United Kingdom

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Great Britain
Status::	Full Capacity
Given Name::	Graham J.
Family Name::	WOODGATE
City of Residence::	Oxfordshire
Country of Residence::	United Kingdom
Street of mailing address::	9 Vicarage Road Henley-on-Thames Oxfordshire RG9 1HF
Country of mailing address::	United Kingdom

~~Applicant Authority Type::~~	~~Inventor~~
~~Primary Citizenship Country::~~	~~Great Britain~~
~~Status::~~	~~Full Capacity~~
~~Given Name::~~	~~Jonathan~~
~~Family Name::~~	~~HARROLD~~
~~City of Residence::~~	~~Warwickshire~~
~~Country of Residence::~~	~~United Kingdom~~
~~Street of mailing address::~~	~~8 Robins Grove~~ ~~Warwick~~

~~Warwickshire~~

~~CV34 6RF~~

~~Country of mailing address::~~ ~~United Kingdom~~

Correspondence Information

Correspondence Customer Number:: 23524

E-Mail address:: PTOMailMadison@foley.com

Representative Information

Representative Customer Number::	23524	

Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	~~National Stage~~ Continuation of	~~0129992.4~~PCT/GB2002/005388	~~12~~11/~~14~~29/~~2001~~2002

Foreign Priority Information

Country::	Application number::	Filing Date::	Priority Claimed::
Great Britain	0129992.4	12/14/2001	Yes

Assignee Information

Assignee ~~name~~Name:: ~~J.A. KEMP & CO.~~Ocuity Limited

FILE COPY

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/867,579	06/14/2004	Jonathan Harrold	053694-0118

CONFIRMATION NO. 2024

OC000000014268672

23524
FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Date Mailed: 11/03/2004

Notice Regarding Benefit/Priority Claim(s)

☐ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

☐ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant application was not filed within twelve (12) months from the filing date of the provisional application,

and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,--- filed---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

☐ **Improper Priority Claim(s) to Prior-Filed Foreign Application(s)**

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

☐ **Benefit Claims to More Than 400 Prior-Filed Applications**

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.

☒ **Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35**

U.S.C. 371) Application

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

PART 3 - OFFICE COPY

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ROBERT M SPERRY ESQ
23390 OSTRONIC DR
WOODLAND HILLS CA 91367

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OFFICE OF PETITIONS

In re Application of	:	
Balsbaugh, et al.	:	
Application No. 10/867,582	:	DECISION GRANTING
Filed: June 14, 2004	:	PETITION
Attorney Docket No. BALSBAUGH	:	

This is a decision on the paper titled "PETITION TO REVIVE", filed March 20, 2006, which is being treated as a petition to revive pursuant to 37 CFR 1.137(b).

The petition is **GRANTED**.

The application was filed on June 14, 2004. However, on August 3, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, setting a two month extendable period for reply to file the missing statutory basic filing fee, together with the surcharge for its late filing. No fee having been received, the application became abandoned on October 4, 2004. A Notice of Abandonment was mailed on April 21, 2005.

With the instant petition, petitioner paid the petition fee, submitted the statutory basic filing fee and surcharge as required by the Notice, and made a 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. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

In re Application of :
Subramanian Venkatraman et al. :
Application No. 10/867,617 : ON PETITION
Filed: June 15, 2004 :
Attorney Docket No. AMRNNZ00200 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, June 1, 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 September 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on December 2, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3774 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

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OFFICE OF PETITIONS

In re Application of :
Deborah L. Barclay, et al. :
Application No. 10/867,623 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. LUC-502/Barclay 19-85-17- :

This is a decision on the petition, filed September 18, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to a final Office action mailed March 3, 2006. On September 18, 2006, the present petition was filed, along with a Request for Continued Examination (RCE) and amendment. A Notice of Abandonment was subsequently mailed on September 20, 2006.

It is noted that although no decision on the petition had been mailed, the submission under 37 CFR 1.114 (request for continued examination) was considered and a non-final Office action was mailed on October 3, 2006. Applicant responded on January 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 RCE; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

This decision returns the application to a pending status and ratifies the ensuing prosecution.

Accordingly, the application file is being referred to Technology Center AU 2612 for consideration of the amendment filed January 3, 2007.

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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Thomas P. Liniak
LINIAK, BERENATO & WHITE
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
Chandra	:	
Application No. 10/867,655	:	DECISION ON PETITION
Filed: June 16, 2004	:	TO WITHDRAW
Attorney Docket No. 7273.150	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April Wise
Petitions Examiner
Office of Petitions

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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: Kano
Application No. 10/867,657
Filed: 16 June 2004
For: METHOD AND APPARATUS FOR ARCHIVE DATA VALIDATION IN AN ARCHIVE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 15 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 **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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TROXELL LAW OFFICE PLLC
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OFFICE OF PETITIONS

In re Application of :
Chiou-Ying Yang :
Application No. 10/867,662 : DECISION ON
Filed: June 16, 2004 : PETITION
Atty Docket No. BHT/3230-115 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed December 13, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 1, 2006. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective August 2, 2006. A courtesy Notice of Abandonment was mailed on December 15, 2006.

Prior to the notice being mailed, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

A review of the application file reveals no irregularities in the mailing of the Office action mailed May 1, 2006. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish

non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed December 15, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1645 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 non-final Office action mailed May 1, 2006 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

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BRUCE H. TROXELL
SUITE 1404
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FALLS CHURCH, VA 22041

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OFFICE OF PETITIONS

In re Application of :
Te-Hsiang Fang :
Application No. 10/867,689 : ON PETITION
Filed: June 16, 2004 :
Attorney Docket No. BHT-3092-449 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 12, 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 April 13, 2006. A Notice of Abandonment was mailed on September 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for the publication 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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TECHNOLOGY CENTER 3600

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

In re application of : **DECISION ON PETITION**
William Gironda : **TO MAKE SPECIAL**
Application No. 10/867,708 : **(APPLICANT'S AGE)**
Filed: June 16, 2004 :
For: VARIABLE WEIGHT DIAMOND JIG FISHING LURE

This is a decision on the petition submitted on June 16, 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. Gironda 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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Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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In re Application of	:	
Chandra	:	
Application No. 10/867,711	:	DECISION ON PETITION
Filed: June 16, 2004	:	TO WITHDRAW
Attorney Docket No. 7273.160	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April Wise
Petitions Examiner
Office of Petitions

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DAVID A. GUERRA
INTERNATIONAL PATENT GROUP, LLC
2025 17TH AVENUE N.W.
CALGARY AB T2M 0S7 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
McKay :
Application No. 10/867,719 : ON PETITION
Filed: June 16, 2004 :
Attorney Docket No. DG008-06 :
For: CRANE ASSEMBLY

This is a decision on the petition, filed April 26, 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 to the October 5, 2006 non-final Office action, which set an extendable three (3) period for reply. Petitioner filed a one month extension of time under the provisions of 37 CFR 1.136(a) and an amendment and drawings on February 26, 2007. Unfortunately, a two month extension of time was required on February 26, 2007. This application became abandoned on February 6, 2007. A Notice of Abandonment was mailed on April 17, 2007.

Applicant has submitted an amendment and drawings in reply to the October 5, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 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.

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 $225.00 extension of time submitted with the petition on April 26, 2007 was filed subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

After the mailing of this decision, the application will be returned to Technology Center AU 3654 for consideration of the amendment and drawings filed on April 26, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of	:	
Myr, David	:	
Application No. 10/867,729	:	ON PETITION
Filed: June 16, 2004	:	
Attorney Docket No. MAK-107US	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 10, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, along with a copy of the applicant's passport. 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 3628 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

In re Patent No. 7,026,998
Issue Date: April 11, 2006
Application No. 10/867,776
Filed: June 16, 2004
Attorney Docket No. CHAN3261/JEK/JS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 23, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The petition included a petition fee of $130. However the fee for a petition under 37 CFR 1.182 is $400. The $270 balance for the petition fee is charged to petitioner's deposit account 02-0200 as authorized by John R, Schaefer.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

David Bucci
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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GAZDZINSKI & ASSOCIATES
11440 West Bernardo Court
Suite 375
San Diego, CA 92127

In re application of : **DECISION ON PETITION**
Robert F. Gazdzinski et al. : **TO MAKE SPECIAL**
Application No. 10/867,794 : **(APPLICANT'S AGE)**
Filed: June 14, 2004 :
For: ERROR-CORRECTED WIDEBAND HOLOGRAPHIC COMMUNICATIONS APPARATUS AND METHODS

This is a decision on the petition submitted on June 14, 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. Rosen 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: 8/24/04

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Subramaniam, et al.	:	
Application No. 10/867,795	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO WITHDRAW
Attorney Docket No. 5306P4017D2	:	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 15, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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
10/867,795	06/14/2004	Pavitra Subramaniam	5306P017D2

CONFIRMATION NO. 5231

OC000000020637129

OC000000020637129

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Paper No.

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5973

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
O'Donnell et al. : DECISION ON PETITION
Application No. 10/867,831 :
Filed: June 14, 2004 :
Attorney Docket No. 1690-8-3 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT (AND, IF DENIED, PETITION TO REVIVE AND NOTICE OF APPEAL)" filed October 4, 2007, in the above-identified application. This petition was recently forwarded to the undersigned for consideration.

The petition under 37 CFR § 1.181 is **DISMISSED**.

The petition under 37 CFR § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137, or under 37 CFR 1.181," as appropriate.

The above-identified application became abandoned for failure to file a response to the final Office action mailed April 20, 2006. This Office action set a three-month statutory period for response, with extensions of time obtainable under 37 CFR 1.136(a). No reply filed and no extension of time obtained, the application became abandoned. A courtesy Notice of Abandonment was mailed on August 15, 2007. In response, applicants timely filed the instant petition.

OPINION

Applicants' arguments and evidence have been considered, but not found persuasive. Under the circumstances of this case, a petition to withdraw the holding of abandonment is not appropriate. Further, applicants have not made an adequate showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable within the meaning of 37 CFR 1.137(a).

ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

As stated in MPEP 711.03(c),

> Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. However, where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c).

By law, pursuant to 35 U.S.C. 133,

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

As stated in 37 CFR § 1.2

> 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.

Moreover, it is well established that:

> A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

Under the circumstances of the abandonment of this application, a petition to withdraw the holding of abandonment is not appropriate. Even if it were appropriate, under the circumstances of the abandonment of this application, withdrawal of the holding of abandonment is not warranted.

In this instance, there is no real dispute that this application is in fact abandoned. No written reply under 37 CFR 1.113 to the Office action (or extension of time) was made of record in this application within the six month statutory period. The various telephone calls and facsimiles to the Office did not toll the period for reply. No petition to withdraw the finality of the Office action is of record in the application. Even if the petition were of record the filing of a petition under 37 CFR 1.181 does not toll any time period running. This too is well established. To avoid abandonment, applicants have to file a timely and proper reply to the final Office action. Applicants did not.

Accordingly, this application properly became abandoned (at the end of the shortened statutory period) by operation of law for failure to reply to an Office action. A petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

ON PETITION TO REVIVE BASED ON UNAVOIDABLE DELAY

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by:

> (1) the required reply (which has been filed);
> (2) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable;
> (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d); and
> (4) the petition fee as set forth in 37 CFR 1.17(l).

The instant petition includes the petition fee. No terminal disclaimer is required. However, requirements (1) and (2) have not been met.

With respect to requirement (1) above, incorporated within the petition to revive is a proposed reply in the form of a Notice of Appeal. However, pursuant to 37 CFR 1.4(c), the Notice of Appeal needs to be set forth in a separate paper. On request for reconsideration, applicants should submit a Notice of Appeal (and appeal fee[1]) or other proper reply.

With respect to requirement (2) above, the showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include:

> (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and
>
> (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

---

[1] As the Notice of Appeal (and authorization to charge appeal fee) was set forth in the petition, it was not recognized by the Office. No appeal fee has been charged to the Deposit Account.

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Having considered applicants' arguments and evidence, it is concluded that the cause of the delay in filing the Notice of Appeal is that applicants permitted the time for reply to expire without taking action based on the oral representations of USPTO employees. Given that business is to be conducted in writing and that such oral promises are not to be relied on, such a

cause does not meet the standard of unavoidable delay. The diligence required by applicants permits reliance on their own worthy and reliable employees. It is an improper interpretation of the standard to say it permits applicants to rely on USPTO employees' oral representations. This interpretation is in direct conflict with 37 CFR 1.2. Moreover, it is expressly stated in the MPEP that reliance on oral advise of employees does not constitute unavoidable delay.

Moreover, it is well established that after final Office action, applicants must comply with 37 CFR 1.113(c) to avoid abandonment of the application. In this instance, applicants did not file such a reply to the Office action. The facsimiles of June 12, 2006 and August 20, 2007 were not made of record. First, of all, they were faxed to the examiner's personal facsimile and not to the Official fax number at 571-273-8300. Regardless of their entry into the Official record, these facsimiles were insufficient to avoid abandonment of the application. Only one of these facsimiles was faxed to the Office prior to the end of the period for reply, and it did not constitute a response to the Office action. It was in effect a petition to withdraw the finality of the Office action and as such, did not toll the period for reply.

Furthermore, the finality of the Office action was not withdrawn. Despite no new Office action being issued by the end of the statutory period, October 20, 2006, applicants filed no further papers. Applicants did not even file a Notice of Appeal pursuant to 37 CFR 1.113(c). Instead, applicants continued to rely on oral communications with the Office and waited through the remaining four months of the statutory period for the issuance of a new Office action. The failure to reply is not unavoidable where applicants simply allow the time for reply to expire while awaiting a "new action to come in the mail." It is specifically noted that applicants are considered to have simply allowed the time for reply to expire where their only action is to file a petition for relief which does not toll the period for reply. Given the posture of the application, and the statute setting forth that an application shall go abandoned upon failure to take action within six months, applicants' failure to insure the filing of a proper reply or a Notice of Appeal prior to the end of the statutory period does not constitute unavoidable delay.

Applicants are not precluded from filing a petition to revive based on unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
O'Donnell et al. : DECISION ON PETITION
Application No. 10/867,831 :
Filed: June 14, 2004 :
Attorney Docket No. 1690-8-3 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed August 28, 2008.

The petition under 37 CFR § 1.137(b) is **DISMISSED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137," as appropriate.

The above-identified application became abandoned for failure to file a response to the final Office action mailed April 20, 2006. A courtesy Notice of Abandonment was mailed on August 15, 2007.

By decision mailed June 23, 2008, a prior petition to withdraw the holding of abandonment, or in the alternative to revive the application based on unavoidable delay, was dismissed. The circumstances of the abandonment were considered, and it was determined that withdrawal of the holding of abandonment was not warranted. Further, the petition to revive was not grantable as applicants did not properly submit the required reply and did not meet their burden of establishing that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

In response, applicants timely filed the instant petition, requesting revival under the less stringent standard of unintentional delay. The provisions of 37 C.F.R. § 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. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition does not satisfy requirement (1) above. The petition includes a proposed reply in the form of a request for continued examination (RCE)(and RCE fee), payment of the petition fee set forth in 37 CFR § 1.17(m), and the required statement of unintentional delay. No terminal disclaimer is required.

However, the RCE submitted is not sufficient to meet the required reply requirement of 37 CFR 1.137(b). The RCE is improper. The RCE is not accompanied by a submission as required by 37 CFR 1.114. Applicants purport to offer the petition to revive as a submission. However, a petition to revive is not a proper submission under 37 CFR 1.114. As stated in §1.114(c),

> A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is

outstanding, the submission must meet the reply requirements of § 1.111.

It is noted that incorporated within the prior petition was a Notice of Appeal. As applicants were previously advised, pursuant to 37 CFR 1.4(c), the Notice of Appeal had to be set forth in a separate paper. Applicants did not cure this deficiency but rather filed the RCE without a submission.

In view thereof, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 27 2009

OFFICE OF PETITIONS

In re Application of :
O'Donnell et al. : DECISION ON PETITION
Application No. 10/867,831 :
Filed: June 14, 2004 :
Attorney Docket No. 1690-8-3 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed December 24, 2008.

The petition under 37 CFR § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a response to the final Office action mailed April 20, 2006. A courtesy Notice of Abandonment was mailed on August 15, 2007.

By decision mailed June 23, 2008, a prior petition to withdraw the holding of abandonment, or in the alternative to revive the application based on unavoidable delay, was dismissed. The circumstances of the abandonment were considered, and it was determined that withdrawal of the holding of abandonment was not warranted. Further, the petition to revive was not grantable as applicants did not properly submit the required reply and did not meet their burden of establishing that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

By decision mailed October 24, 2008, the petition filed August 28, 2008 under the provisions of 37 CFR § 1.137(b) based on unintentional delay was dismissed. The petition did not satisfy the requirement of 37 CFR §1.137(b)(1) to submit the required reply. Applicants submitted a proposed reply in the form of a

request for continued examination (RCE) and RCE fee. However, the RCE was improper as it did not include a submission under §1.114.

On instant request for reconsideration, applicants submitted an RCE with a submission under §1.114 in the form of an amendment. This proposed reply satisfies the requirement of 37 CFR 1.137(b)(1). Applicants have now met all requirements for revival of this application pursuant to 37 CFR 1.137(b).

Technology Center AU 3621 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 December 24, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JUL 19 2010

OFFICE OF PETITIONS

Applicant: Duanmu, et al.

Application No. 10/867,838
Filed: June 16, 2004
Attorney Docket No.: 06720.0126-00

: ON PETITION
: under 37 CFR 1.183
: and 37 CFR 1.705(d)
: REQUEST FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on December 24, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and twenty-three (694) days.

The request for reconsideration of patent term adjustment is **GRANTED-in-part**.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 694 days, which includes 167 days due to exceeding three year pendency.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 556 days.

Patentees err in the "B" period calculation by one day. In that, the period is calculated from the day after the 36 months, i.e. from June 17, 2007 until one day before the filing of an RCE or the issue date. In this case the RCE was filed on November 30, 2007; hence the "B" period extends from June 17,

2007 to November 29, 2007 for a total of 166 days. Thus, the PTA term is the total "A" delay of 556 days, plus the total "B" delay of 166 days, minus applicant's delay of 29 days. As a result the request of a total PTA of 694 days is **granted-in-part for a total of 693 days.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. Prior to the issuing of a certificate of correction, applicant is giving an opportunity to be heard. See 37 CFR 1.322. Accordingly, applicant is given **one month or thirty (30) days to reply.** After the response period has elapsed, the Office will *sua sponte* issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and sixty-three (693) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e), paid on December 15, 2008. No additional fees are required.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

cc: cc Adjusted PTA calculation
Draft Cert. Of correction

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 09:01:08

PTA Calculations for Application: 10/867838			
Application Filing Date:	06/16/2004	PTO Delay (PTO):	556
Issue Date of Patent	07/01/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	693
PTO Delay Adjustment:	166		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	07/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	166		
53.5	06/11/2008	PTA 36 MONTHS			
53	07/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	06/05/2008	EXPORT TO FINAL DATA CAPTURE			
51	06/04/2008	DISPATCH TO FDC			
50	06/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	05/28/2008	ISSUE FEE PAYMENT VERIFIED			
48	05/28/2008	ISSUE FEE PAYMENT RECEIVED			
47	04/02/2008	FINISHED INITIAL DATA CAPTURE			
46	03/07/2008	EXPORT TO INITIAL DATA CAPTURE			
45	03/04/2008	MAIL NOTICE OF ALLOWANCE			
44	03/04/2008	MAIL EXAMINER'S AMENDMENT			
43	03/01/2008	ISSUE REVISION COMPLETED			
42	03/01/2008	DOCUMENT VERIFICATION			
41	03/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	02/28/2008	EXAMINER'S AMENDMENT COMMUNICATION			
39	02/28/2008	NOTICE OF ALLOWABILITY			
38	12/18/2007	DATE FORWARDED TO EXAMINER			
37	11/30/2007	RCE- AF PROCESSED			
36	12/18/2007	DATE FORWARDED TO EXAMINER			
35	11/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	26
34	12/18/2007	DISPOSAL FOR A RCE / CPA / R129			
33	11/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	10/30/2007	MAIL ADVISORY ACTION (PTOL - 303)			
29	10/29/2007	ADVISORY ACTION (PTOL-303)			
28	10/24/2007	DATE FORWARDED TO EXAMINER			
27	10/18/2007	AMENDMENT AFTER FINAL REJECTION			
26	08/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
25	07/31/2007	FINAL REJECTION			
23	06/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/31/2007	DATE FORWARDED TO EXAMINER			
19	05/22/2007	RESPONSE AFTER NON-FINAL ACTION			
18	02/23/2007	MAIL NON-FINAL REJECTION	556		-1
17	02/20/2007	NON-FINAL REJECTION			
16	06/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	01/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
12	10/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	10/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	06/16/2004	REFERENCE CAPTURE ON IDS			
9.7	06/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/05/2004	APPLICATION RETURN FROM OIPE			
7	08/05/2004	APPLICATION RETURN TO OIPE			
6	08/05/2004	APPLICATION DISPATCHED FROM OIPE			
5	08/05/2004	APPLICATION IS NOW COMPLETE			
4	07/27/2004	CLEARED BY OIPE CSR			
3	07/27/2004	CASE CLASSIFIED BY OIPE			
2	07/08/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,394,996 B2
DATED	:	July 1, 2008
INVENTOR(S)	:	Duanmu 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 527 days

Delete the phrase "by 527 days" and insert – by 693 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WASHINGTON DC 20037

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of
Akihiro Ikejiri
Application No. 10/867,840
Filed: June 16, 2004
Attorney Docket No. Q82109

DECISION ON PETITIONS

This is a decision on the petition, filed December 1, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. This is also a decision on the petition filed December 1, 2008, under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed February 22, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 30, 2008.

Petitioner asserts that the Office action dated February 22, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received 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 to revive under 37 CFR 1.137(b) is dismissed in view of the granting of the petition under 37 CFR 1.181 to withdraw holding of abandonment. The petition fee of $1,620 will be refunded as requested.

This application is being referred to Technology Center AU 2144 to consider the reply received on December 1, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GRAYBEAL JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5901

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Wilfried Glien et al :
Application No. 10/867,846 :
Filed: June 14, 2004 :
Attorney Docket No. 1914-003-03/34094-US :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 3738.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Michael Turner et al. :
Application No. 10/867,873 : DECISION ON PETITION
Filed: June 14, 2004 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 5693P067 :
Title: METHOD AND SYSTEM FOR :
BROWSING A DOCUMENT REPOSITORY :

This is a decision on the petition filed April 23, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 20, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 21, 2006. A notice of abandonment was mailed on March 7, 2007.

With the present petition, Petitioner has asserted that the non-final Office action of July 20, 2006 was not received.

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would

have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket records, 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 non-final Office action of July 20, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 See MPEP 711.03(c).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

RECEIVED
JUL 13 2005
Docket: P0237US3
Client: Gyros
Attorney: mwA

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JUL 0 6 2005

OFFICE OF PETITIONS

Applicant: Andersson et al.
Appl. No.: 10/867,910
Filing Date: June 16, 2004
Title: MICROFLUIDIC SYSTEM
Attorney Docket No.: HO-P0237US3
Pub. No.: US 2004/0239234 A1
Pub. Date: December 2, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on January 19, 2005, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as application published with the wrong abstract, as it does not include abstract filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." 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 an Office error, which is not a material mistake because the technical disclosure and the claims are understandable, as the information is also included summary of the invention and else where in the specification. The error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error is also not a material mistake because the application is a Continuation of U.S. Application 10/621,868 filed July 17, 2003, now U.S. Patent No. 6,812,457 and U.S. Patent

[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).

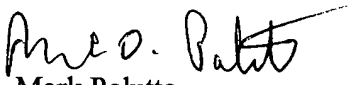
Application Publication 2004/0016879 A1. Since, the parent application is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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

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

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KEVIN GERARD FRASER
116 WOODS EDGE DRIVE
BELLEVILLE, IL 62221

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JUN 11 2008

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Kevin Gerard Fraser :
Application No. 10/867,928 :
Filed: June 15, 2005 :
Attorney Docket No. STAR-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 19, 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). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 20, 2007. On February 21, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Robert B. Reeser, III appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition 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), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT B. REESER, III
ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE, SUITE 2600
SAINT LOUIS, MO 63102-2740

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PATENT DOCKET DEPARTMENT
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

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MAR 19 2010

OFFICE OF PETITIONS

In re Application of
Kevin Gerard Fraser
Application No. 10/867,928
Filed: June 15, 2004
Attorney Docket No. STAR-3

ON PETITION

This is a decision in response to the petition, filed December 14, 2009, 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 September 17, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 18, 2008. A Notice of Abandonment was mailed on April 15, 2009. On December 14, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business on the amendment received December 14, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of :
Subramaniam, et al. :
Application No. 10/867,930 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 5306P017C : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely Sokoloff Taylor & Zafman has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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
10/867,930	06/14/2004	Pavitra Subramaniam	5306P017C

CONFIRMATION NO. 4014

OC000000020400862
OC000000020400862

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 12 2004

In re Application of :
David C. Aviña : DECISION ON PETITION
Application No. 10/867,943 :
Filed: June 14, 2004 :
For: Method And Apparatus For Combined Cycle Fluid Propulsion

This is a decision on the petition to make special filed on July 14, 2004. The petition is based upon the practice described in MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is dismissed.

The petition to make special based upon the practice in the above mentioned MPEP section is not deemed to satisfy all of the requirements thereof. Specifically, while there is an allegation that the disclosed and claimed invention relates to the development of energy resources, there is no data presented in the petition or disclosed in the application from which one may conclude that the claimed invention "materially" contributes to the reduction of energy consumption. In fact, the specification as filed does not appear to mention that the invention is directed to, or accomplishes any, material conservation of energy resources or develops any **new** energy resource.

Petitioner may file a renewed petition presenting additional arguments or pointing out any errors in this decision. There is no fee for a renewed petition. However, any renewed petition must be presented within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

David C. Aviña
105 Sycamore Street
Bay St. Louis, Mississippi 39520

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DAVID CHRISTOPHER AVINA
105 SYCAMORE STREET
BAY ST. LOUIS MS 39520

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SEP 05 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of
David Avina
Application No.10/867,943
Filed: June 14, 2004
Title of Invention: Combined Cycle Boundary Layer Turbine

This is a decision on the petition under 37 CFR §1.137(a), filed June 26, 2006 to revive the above-identified application.

This application became abandoned for failure to timely submit the a response to the non-final Office Action mailed on October 18, 2005. The notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 19, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The address provided on the petition differs from the correspondence address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center 3700 for review of the amendment submitted with the petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: David Avina
7422 Tidewater Drive
Slidell, LA 70458

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Paper No.

Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

MAILED

JUL 12 2005

Technology Center 2100

In re Application of:
Raghav Gupta
Application No. 10/867,953
Filed: June 14, 2004
For: AUTOMATED METHOD AND SYSTEM TO CALCULATE THE SURFACE DISTANCE BETWEEN TWO GEOGRAPHICAL LOCATIONS, AND TO FILTER A DATA SET BASED ON THE CALCULATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 22, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 22, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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Choate, Hall & Stewart, LLP
Attn: Andrea L.C. Robidoux
Two International Place
Boston, MA 02110

MAILED

JAN 19 2010

OFFICE OF PETITIONS

In re Application of :
Rolf-Dieter Hesch :
Application No. 10/867,954 : DECISION ON PETITION
Filed: June 15, 2004 : TO WITHDRAW
Attorney Docket No. AM101403 C3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Choate, Hall & Stewart, LLP has been revoked by the assignee of the patent application on November 20, 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wyeth, LLC
Patent Law Group
5 Giralda Farms
Madison, NJ 07940

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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
10/867,971	06/15/2004	2182	385	LNK-0073	5	18	2

CONFIRMATION NO. 5180

CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002

CORRECTED FILING RECEIPT

OC000000014688602

Date Mailed: 12/08/2004

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)

Byung-Suk Kang, Yongin-Si, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **23413**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-38947 06/16/2003
REPUBLIC OF KOREA 2004-35373 05/18/2004

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 US10/867,971

Projected Publication Date: 12/16/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Information processing device and method for controlling the same

Preliminary Class

710

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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Joye, et. al.	:	DECISION ON REQUEST
Application No. 10/867,986	:	TO WITHDRAW FROM
Filed: June 14, 2004	:	RECORD
Attorney Docket No. 018468-001020US	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on March 15, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

This application file is being referred to Technology Center Art Unit 3739, for review of the response to the Office action filed June 16, 2006.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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AUG 17 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of
Nagao Myazaki
Application No. 10/867,993
Filed: June 15, 2004
Attorney Docket No: F-8296

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed May 17, 2005 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned August 18, 2005. Accordingly, a Notice of Abandonment was mailed February 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that a continuation application under 37 CFR 1.53(b) was filed November 17, 2005 in response to the Final Office Action, however an extension of time was not filed in the instant application for the purposes of making the response timely and thus the instant application became abandoned. Additionally, for revival, the instant petition includes a the petition fee of $750 and an adequate statement of unintentional delay.

---

[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)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.11/282,796 filed November 17, 2005, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 2855 for processing of the continuation application filed November 17, 2005.

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert F. Gazdzinski, Esq.
Gazdzinski & Associates
Suite 375
11440 West Bernardo Court
San Diego CA 92127

MAIL

SEP 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Lowell Rosen, et al.
Application No. 10/867,995
Filed: June 14, 2004
For: **SOFTWARE-DEFINED WIDEBAND HOLOGRAPHIC COMMUNICATIONS APPARATUS AND METHODS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed June 14, 2004 pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a declaration by the first named inventor attesting that Mr. Rosen is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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BEYER WEAVER & THOMAS LLP
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BERKELEY CA 94704-0778

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of
Robert C. Spiro et al
Application No. 10/868,041
Filed: June 14, 2004
Attorney Docket No. DEPYP015D3

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 1615

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BERKELEY CA 94704-0778

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Robert C. Spiro et al :
Application No. 10/868,043 :
Filed: June 14, 2004 :
Attorney Docket No. DEPYP015D1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 1615

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Robert C. Spiro et al :
Application No. 10/868,046 :
Filed: June 14, 2004 :
Attorney Docket No. DEPYP015D2 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 1615

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PAUL N. KING
1201 PENNSYLVANIA AVE., NW, 5TH FL.
WASHINGTON, DC 20004

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FEB 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Donna Oksenberg et al	:	
Application No. 10/868,048	:	ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. MHK-087-011US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1614 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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
10/868,050	06/15/2004	2681	459	15837US02	6	21	2

CONFIRMATION NO. 4261

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

CORRECTED FILING RECEIPT

OC000000014142017

Date Mailed: 10/20/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bindu Rama Rao, Laguna Niguel, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23446**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,871 06/16/2003
and claims benefit of 60/479,268 06/18/2003

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 US10/868,050

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

Management tree management in a mobile handset

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).

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MAR 1 6 2006

OFFICE OF PETITIONS

In re Application of :
Bradley L. Quist :
Application No. 10/868,051 : DECISION ON PETITION
Filed: June 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 139.075US2 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 13, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received by the deciding official within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. No fees have been assessed to the RCE and petition to withdraw from issue.

The amendment and Information Disclosure Statement have been placed in the file of the above-identified application without further consideration.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

LARS D. JENSEN
JENSEN R&D CORPORATION
5720 Forest Bend Drive, #103
Arlington, TX 76017

In re application of : **DECISION ON PETITION**
Dewey Dye : **TO MAKE SPECIAL**
Application No. 10/868,078 : **(APPLICANT'S AGE)**
Filed: June 15, 2004 :
For: TRAILER HITCH HAVING RAPID ADJUSTMENT

This is a decision on the petition submitted on June 15, 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. Dye 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: 8/10/04

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P.O. BOX 1166
HARRISBURG PA 17108-1166

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of :
Richard R. KING et al. :
Application No. 10/868,080 : DECISION ON PETITION
Filed: June 15, 2004 :
Attorney Docket No. 21797-0014 :
(016517/11968)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 04, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 26, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 27, 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. Accordingly, the reply to the final Office Action of December 26, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $490 extension of time fee submitted with the petition on August 04, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1795 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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FEB 17 2005

James E. Bradley
BRACEWELL & PATTERSON, LLP
P.O. Box 61389
Houston TX 77208-1389

In re Application of
James R. Neff
Serial No.: 10/868,087
Filed: June 15, 2004
For: Dynamic Compression Device and Driving Tool

DECISION ON PETITION

This is in response to applicants' petition filed June 15, 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 Esther M. Kepplinger by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Esther M. Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/15/09 Paper No.: ____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/868091 Patent No.: 7388925 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The Request for Certificate of Correction is proper and therefore it is approved

02/09/2009 /Juan A. Torres/ Primary Examiner 2611

SPE Art Unit

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Sandra P. Thompson
Buchalter Nemer
18400 Von Karman Ave., Suite 800
Irvine CA 92612

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OCT 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles Wiseman et al.	:	
Application No. 10/868,094	:	ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. W7804-0105	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 5, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 8, 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 $750; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $225 extension of time fee submitted with the petition on July 30, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1634 for appropriate action on the previously filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

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VALLEY FORGE, PA 1482-0980

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
David Anthony Campana, et al. :
Application No. 10/868,110 : DECISION ON PETITION
Filed: June 15, 2004 : TO WITHDRAW
Attorney Docket No. 5620-001 : 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 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Ratner & Prestia has been revoked by the assignee of the patent application on March 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MATTHEW GORRA, ESQ.
DLA PIPER, RUDNICK, GRAY & CARY US LLP
6225 SMITH AVENUE
BALTIMORE, MD 21209-3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: David Anthony Campana	: DECISION ON REQUEST FOR
Patent Number	: 7571167	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,110	: OF WYETH
Filed	: 06/15/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Beyer Weaver LLP
P.O. Box 70250
Oakland, CA 94612-0250

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Shin Yoshida, et al.	:	
Application No. 10/868,112	:	DECISION ON PETITION
Filed: June 14, 2004	:	TO WITHDRAW
Attorney Docket No. ALPSP158	:	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 7, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Beyer Weaver LLP has been revoked by the assignee of the patent application on May 1, 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: **Beyer Law Group LLP**
P.O. Box 1687
Cupertino, CA 95015-1687

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

SCHWEITZER CORNMAN
GROSS & BONDELL LLP
292 MADISON AVENUE -
19th FLOOR
NEW YORK NY 10017

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NOV 2 6 2008

In re Application of	:	
Dennis Smith	:	DECISION ON
Application No. 10/868,117	:	PETITION
Filed: June 15, 2004	:	
Atty Docket No. WAVE 3.0-018 /CON	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 2, 2008.

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 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, August 20, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply received, the above-identified application became abandoned on November 21, 2007. In addition, applicants failed to submit corrected drawings within three months of the mailing date, August 20, 2007, of the Notice of Allowability. A courtesy Notice of Abandonment was mailed on December 13, 2007.

The provisions of 37 C.F.R. § 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. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes the required reply in the form of payment of the issue fee and publication fee, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. However, the instant petition does not satisfy requirement (1) above.

The petition does not include the corrected drawings. The Notice of Allowability set forth a concurrent but distinct requirement. Satisfaction of this requirement was also required to avoid abandonment. As such submission of the required reply to the Notice of Allowability, corrected drawings, is required to grant the petition to revive.

Receipt of the change of correspondence address filed with the petition is acknowledged and made of record.

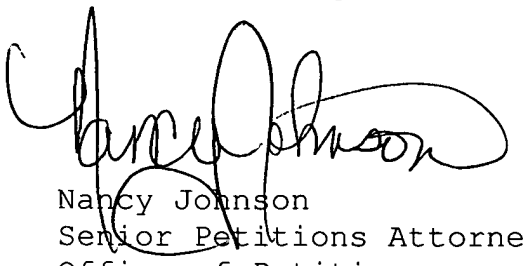
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCHWEITZER CORNMAN
GROSS & BONDELL LLP
292 MADISON AVENUE -
19th FLOOR
NEW YORK NY 10017

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Dennis Smith	:	DECISION ON
Application No. 10/868,117	:	PETITION
Filed: June 15, 2004	:	
Atty Docket No. WAVE 3.0-018 /CON	:	

This is a decision on the Renewed Petition Under 37 C.F.R. Section 1.137(b) filed January 5, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective November 21, 2007 for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, August 20, 2007, of the Notice of Allowance and Fee(s) Due. In addition, applicants failed to submit corrected drawings within three months of the mailing date, August 20, 2007, of the Notice of Allowability. A courtesy Notice of Abandonment was mailed on December 13, 2007.

By decision mailed November 26, 2008, the initial petition filed September 2, 2008 was dismissed. The petition included the required reply in the form of payment of the issue fee and publication fee, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. However, the petition did not include the corrected drawings required to avoid abandonment.

On instant renewed petition, applicants submit the corrected drawings. Applicants have now met all requirements of 37 CFR 1.137(b) for revival of this application.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Pratik Gupta	: DECISION ON REQUEST FOR
Patent Number	: 7624445	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

TYCO ELECTRONICS CORPORATION
4550 NEW LINDEN HILL ROAD, SUITE 450
WILMINGTON, DE 19808

In re Application of :
Brindle, et al. : DECISION REFUSING STATUS
Application No. 10/868,123 : UNDER 37 CFR 1.47(a)
Filed: June 15, 2004 :
Atty. Dkt. No.: 18081A :
For: APPARATUS AND METHOD FOR :
DETECTING RADIO FREQUENCY :
TRANSMISSION POWER LEVELS :

This decision is in response to the petition under 37 CFR 1.47(a), filed October 8, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed June 15, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 6, 2004 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above.

While petitioners allege the inventor refused to sign the application papers, it is unclear if the alleged refusal occurred after the inventor was presented with a copy of the application papers.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

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. 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 non-signing 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.

Any renewed petition should clarify the exact nature of the alleged refusal. If the inventor expressly stated that the application papers should not be sent, this fact should be set forth in a declaration of facts signed by one to whom the statement was made. If the inventor received the application papers and thereafter refused to review the application papers and sign the declaration, this fact should be set forth in a declaration by a person having first hand knowledge of the refusal. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

The required petition fee has been charged to deposit account No. 19-5425 as authorized in the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916

By hand:

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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THE WHITAKER CORPORATION
4550 NEW LINDEN HILL ROAD
SUITE 140
WILMINGTON, DE 19808-2952

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of
Brindle, et al.
Application No. 10/868,123
Filed: June 15, 2004
Atty. Dkt. No.: 18081A
For: APPARATUS AND METHOD FOR DETECTING RADIO FREQUENCY TRANSMISSION POWER LEVELS

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 3, 2005 (Certificate of Mailing date of December 27, 2004).

The petition is **GRANTED**.

Petitioner has shown that inventor Norbert Andrew Schmitz has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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NORBERT ANDREW SCHMITZ
42 GREEN HAVEN ROAD
SALEM, NH 03079-1350

In re Application of
Brindle, et al.
Application No. 10/868,123
Filed: June 15, 2004
Atty. Dkt. No.: 18081A
For: APPARATUS AND METHOD FOR DETECTING RADIO FREQUENCY TRANSMISSION POWER LEVELS

: LETTER

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FEB 09 2005

OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAECKLE, FLEISCHMANN & MUGEL, LLP
12 FOUNTAIN PLAZA, 8TH FLOOR
BUFFALO NY 14202-2922

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OFFICE OF PETITIONS

In re Application of	:	
Brindle et al.	:	
Application Number: 10/868123	:	ON PETITION
Filing Date: 06/15/2004	:	
Attorney Docket Number: 18081A	:	

This is a decision on the renewed petition filed on February 10, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 8, 2009, for failure to timely file the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 7, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on January 30, 2009.

---

[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 Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the issue and publication fee is acknowledged.

It is noted that the petition authorizes the charging of a petition fee of $510.00. The current fee for a petition under 37 CFR 1.137(b) is $1,620.00. The balance due has been charged to counsel's deposit account, as the petition includes an authorization to charge any underpayments to counsel's deposit account.

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J CLINTON WIMBISH
KILPATRICK STOCKTON LLP
1001 WEST FOURTH ST
WINSTON-SALEM NC 27101

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Schirmer, et al.	:	DECISION ACCORDING STATUS
Application No. 10/868,125	:	UNDER 37 CFR 1.47(a)
Filed: June 15, 2004	:	
Attorney Docket No. 54673/298799	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 5, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on June 15, 2004, without an executed oath or declaration. Accordingly, on August 6, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring, *inter alia*, an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicants filed the instant petition on January 5, 2005, made timely by obtaining a three month extension of time. Accompanying the petition was a declaration executed by inventors Mark Schirmer, Ernest Benoit, Jeremy Freeman, and Thomas W. Hastings, with the signature block for inventor James R. Andies left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that Andies was mailed a copy of the application papers on September 29, 2004, and to date, has not returned an executed oath or declaration. Rule 47 applicant included a copy of the September 29, 2004 letter to Andies, transmitting the application papers.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES R ANDIES
1224 BRYMER CREEK RD
MCDONALD TN 37353

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Mark Schirmer, James Andies, Ernest :
Benoit, Jeremy Freeman, Thomas W. :
Hastings :
Application No. 10/868,125 : LETTER
Filed: June 15, 2004
Title: IN-SITU CATALYST REPLACEMENT

Dear Mr. Andies:

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

J. Clinton Wimbish
Kilpatrick Stockton LLP
1001 West Fourth St
Winston-Salem NC 27101

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J. CLINTON WIMBISH
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of :
Schirmer et al. : ON APPLICATION FOR
Application No. 10/868,125 : PATENT TERM ADJUSTMENT
Filed: June 15, 2004 :
Atty Docket No. 54673-298799 :

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE," filed August 10, 2009. Applicants request that the determination of patent term adjustment be increased from 506 days to 1131 days.

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and with payment of the issue fee. Thus, the application for patent term adjustment was timely filed. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied

the application for patent term adjustment.[1] Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e). Applicants are not precluded from promptly paying the required fee for consideration of this application for patent term adjustment. Applicants should call the undersigned upon submission of such fee.

However, with respect to Office delay in taking more than 3 years to issue the patent, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is also noted that applicants assert that a 91 day reduction, rather than a 60 day reduction, should be entered for the filing of a response on January 5, 2005 to the notice to file missing parts mailed on August 6, 2004.

Applicants are reminded that 37 CFR 1.702(b) states, in pertinent part, that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or

[1] The Electronic Acknowledgement Receipt accompanying the subject request authorized the charging only of any fees required under 37 CFR 1.20 and 1.21.

> transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. **The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.**
>
> (emphasis added)

As the response filed on January 5, 2005, was filed three (3) months and 60 days after the mailing of the notice to file missing parts mailed on August 6, 2004, the period of delay under 37 CFR 1.704(b) is 60 days. Entry of a 91 day period is not warranted.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3219.

C. J. Donnell for

Anthony Knight
Supervisor
Office of Petitions

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Paper No.

J. CLINTON WIMBISH
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,638,039	: DECISION ON REQUEST
Schirmer et al.	: FOR
Issue Date: 12/29/2009	: RECONSIDERATION OF
Application No. 10/868,125	: PATENT TERM ADJUSTMENT
Filed: 06/15/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
54673-298799	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 11, 2010, which is being treated as a request for reconsideration 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 three hundred fifty (1350) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred fifty (1350) days is **GRANTED**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred fifty (1350)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,638,039 B2

DATED : **December 29, 2009** **DRAFT**

INVENTOR(S) : Schirmer 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 681 days.

Delete the phrase "by 681 days" and insert – by 1350 days--

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Carmen Patti Law Group , LLC
ONE N. LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

Mail Date: 05/24/2010

Applicant	: Richard W. Buskens	: DECISION ON REQUEST FOR
Patent Number	: 7627871	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/868,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/868,129	06/14/2004	2123	450	35417-8002.US01	6	6	1

CONFIRMATION NO. 4605

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

CORRECTED FILING RECEIPT

OC000000018304652

Date Mailed: 03/16/2006

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)

Ravi Krishnamurthy, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number **22918**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,102 06/11/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/868,129

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Systems and methods for managing distributed design chains

Preliminary Class

703

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
Ravi Krishnamurthy :
Application No. 10/868,129 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 35417-8002.US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed August 3, 2007. On March 7, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2123 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NEW YORK NY 10112-4498

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of
Fan et al.
Application No. 10/868,133
Filed: June 14, 2004
Attorney Docket No. 077376.0112

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1623 for appropriate action on the amendment filed October 10, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/868,133	06/14/2004	1623	678	077376.0112	9	4

CONFIRMATION NO. 4615

CORRECTED FILING RECEIPT

21003
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

OC000000027490383

Date Mailed: 01/02/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jian-Qiang Fan, Demarest, NJ;
Satoshi Ishii, Oita-shi, JAPAN;

Assignment For Published Patent Application

Mount Sinai School of Medicine of New York University, New York, NY

Power of Attorney: The patent practitioners associated with Customer Number 21003

Domestic Priority data as claimed by applicant

This application is a CON of 09/927,285 08/10/2001 PAT 6,774,135
which is a CON of 09/087,804 06/01/1998 PAT 6,274,597

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/868,133**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method of enhancing lysosomal alpha-galactosidase A

Preliminary Class

514

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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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JAN 19 2005

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

In re Application of	:
Skurkovich, et al.	:
Serial No.: 10/868140	: PETITION TO MAKE SPECIAL
Filed: June 15, 2004	:
Attorney Docket No.: 53663-5027	:

This is in response to applicants' petition filed October 18, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have 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 William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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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
10/868,149	06/15/2004	1636	563	2063-15298US02		35	4

CONFIRMATION NO. 4952

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

CORRECTED FILING RECEIPT

OC000000013895752

Date Mailed: 09/24/2004

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)

Ricky D. Moneymaker, Stuarts Draft, VA;
Larry S. Klesman, Lake Forest, IL;
Jon S. Theus, Gurnee, IL;

Assignment For Published Patent Application

Micro Nutrient, LLC

Power of Attorney: The patent practitioners associated with Customer Number **22446**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/561,097 04/08/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/868,149

Projected Publication Date: 10/13/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Nutrient system for individualized responsive dosing regimens

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

In re Application of:
Melkent, Anthony J. et al
Serial No. 10/868,153
Filed: Jun. 15, 2004
Docket: MSDI-218/PC939.00
Title: MINIMALLY INVASIVE DEPLOYABLE CUTTING INSTRUMENT

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Oct. 16, 2007 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Aug. 13, 2007.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Aug. 13, 2007 is hereby withdrawn. The Office action mailed on Aug. 13, 2007 has been designated as non-final Office action.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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ALEXANDRIA, VA 22313-1450
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MEDTRONIC
Attn: Noreen Johnson - IP
Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,429,264	:	DECISION ON REQUEST
Melkent et al.	:	FOR
Issue Date: September 30, 2008	:	RECONSIDERATION OF
Application No. 10/868,153	:	PATENT TERM ADJUSTMENT
Filed: June 15, 2004	:	
Attorney Docket No. MSDI-218/PC939.00	:	
Title: Minimally Invasive Deployable Cutting Instrument	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 35 USC 154" filed November 12, 2008. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred twenty-six (526) to nine hundred ninety-eight (998) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

On September 30, 2008, the above-identified application matured into U.S. Patent No. 7,429,264. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 526 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 998 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

Patentees maintain that the patent term adjustment was not properly calculated. Referencing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), patentees submit that the time period beyond that allowed for a first Office action under §154(b)(1)(A) and the time period beyond the three-year period allowed for prosecution under §154(b)(1)(B) should be counted separately and then added together to determine the total patent term adjustment if delays under those sections do not occur on the same calendar day.

The period of reduction of 2 days for applicant delay is not in dispute.

Specifically, patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (472 days) and the period of Examination Delay (528 days) to the extent that these periods of delay are not overlapping. Patentees maintain that as these periods do not occur on the same calendar day they do not overlap. As such, patentees assert entitlement to a patent term adjustment of 998 days (472 + 528 - 2).

It is noted that the instant patent issued 3 years and 472 days after its filing date. However, the Office contends that the entire period of 472 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent (526 days). Accordingly, no additional period of adjustment was entered for Office delay for Office issuance of the patent more than 3 years after the filing date of the application. The patent properly issued with a revised patent term adjustment of 526 days (528 - 2).

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. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the

rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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. Treating the relevant period as starting on June 15, 2007, the date that is 3 years after the actual filing date of the application is incorrect.

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 until the issuance of the patent, June 15, 2004 to September 30, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 528 days, not 528 + 472 days. The Office took 14 months and 528 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 528 days of Office delay and the 2 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 472 days after its filing date. The Office did not delay 528 days and then an additional 472 days. The 528 day delay contributed to the 472 day delay. Accordingly, 528 days of patent term adjustment (not 528 and 472 days) was properly entered since the period of delay of 472 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 528 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 528 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 472 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

Accordingly, at issuance, the patent issued with a revised patent term adjustment of 526 days (528 - 2 days).

In view thereof, the instant patent is not entitled to further adjustment.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson,
Senior Petitions Attorney
Office of Petitions

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SCOTTSDALE AZ 85254-5175

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OFFICE OF PETITIONS

In re Application of	:	
William J. Roberts	:	
Application No. 10/868,164	:	DECISION ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. 1400-059-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 23, 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 August 24, 2006. A Notice of Abandonment was mailed on January 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (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 May 23, 2006 is accepted as being unintentionally delayed.

The Notice of Abandonment mailed on January 5, 2007 was returned to the Office as being undeliverable with an indication thereon that the forwarding order has expired and noting the forwarding address, which is the same address appearing on the present petition to revive. While no change of address has been formally filed, the address of record has been changed to the address noted on the petition to revive. Petitioner is reminded that the Office should be promptly informed of any change of address to ensure the timely receipt of USPTO correspondence.

This application is being referred to Technology Center AU 1625 for appropriate action in the normal course of business on the reply received March 29, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 28 2009

OFFICE OF PETITIONS

Don D. Cha
547 Buena Vista Road
Golden CO 80401

In re Application of

William J. Roberts

Application No. 10/868,164

Filed: June 14, 2004

Attorney Docket No. **1400-059-2**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 14, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 14, 2007. The Notice set forth a three (3) month statutory period for reply. The fees were not received within the allowable period. Accordingly, this application became abandoned on March 14, 2008. A Notice of Abandonment was mailed January 29, 2009.

The fees were received on September 14, 2009.

Form PTOL-85B, filed February 17, 2009, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/868,164	06/14/2004	William J. Roberts	1400-059-2

CONFIRMATION NO. 3660

POA ACCEPTANCE LETTER

68514
Don D. Cha
547 Buena Vista Road
Golden, CO 80401

OC000000038362124

Date Mailed: 10/19/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2009.

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.

/kathornton mclaughl/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of :
Friedman, et al. :
Application No. 10/868,168 : DECISION ON PETITION
Filed: June 14, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18602-09230 (P1647C2) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 forwarded to Technology Center Art Unit 2194 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/868,168	06/14/2004	2194	920	18602-09230 (P1647C2)	16	2

CONFIRMATION NO. 3649

CORRECTED FILING RECEIPT

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000035072643

Date Mailed: 03/19/2009

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)

Gregory S. Friedman, San Francisco, CA;
Thomas W. Becker, Cupertino, CA;

Power of Attorney:

Paul Carmichael--18679	Kenneth Kaslow--32246
Albert Smith--20355	Robert Martin--32426
Edward Radlo--26793	Mark Aaker--32667
Robert Sabath--29107	J Cody--33042
Timothy Gens--29153	David Larwood--33191

Domestic Priority data as claimed by applicant

This application is a CON of 09/664,867 09/19/2000 PAT 6,757,905
which is a CON of 08/435,719 05/05/1995 PAT 6,167,455

Foreign Applications

If Required, Foreign Filing License Granted: 08/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/868,168**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and system for synchronous operation of linked command objects

Preliminary Class

719

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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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

MAILED

APR 17 2009

OFFICE OF PETITIONS

Applicant: Rosen et al.
Appl. No.: 10/868,184
Filing Date: June 16, 2004
Title: HUMAN SECRETED PROTEINS
Attorney Docket: PS805D1
Pub. No.: US 2007/0048818 A1
Pub. Date: March 1, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 1, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the material error of not including the proper tables on the PSIPS website.

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]

However, the link set forth in the publication, http://seqdata.uspto.gov/?pageRequest=docDetail&DocID=US20070048818A1, links to the proper information. Copies of the linked web pages are attached.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be

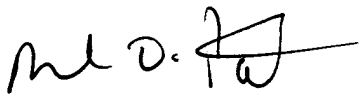
[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.



Mark O. Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Chiou, et al.	:	DECISION GRANTING STATUS
Application No. 10/868,221	:	UNDER 37 CFR 1.47(a)
Filed: June 16, 2004	:	
Atty. Dkt. No.: 3313-1190PUS1	:	
For: FIELD EMISSION DISPLAY DEVICE	:	

This decision is in response to the petition under 37 CFR 1.47(a), filed January 15, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventors Jon-Lian Kwo and Meiso Yokoyama have refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioners are advised that the current petition fee required for a petition under 37 CFR 1.47 is currently $200.00. As petitioners only submitted $130.00, the remaining $70.00 has been charged to Deposit Account No. 02-2448 as authorized in the instant petition.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney

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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JOHN-LIAN KWO
4F., NO. 22-1, SEC. 3
KANGNING RD.
NEIHU DISTRICT, TAIPEI CITY 114
TAIWAN 8400, ROC

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Chiou, et al. :
Application No. 10/868,221 : LETTER
Filed: June 16, 2004 :
Docket No.: 3313-1190PUS1 :
For: FIELD EMISSION DISPLAY :
DEVICE :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No.: 10/868222	:	ON PETITION
Filing or 371(c) Date: 06/16/2004	:	
Attorney Docket Number:	:	
6661-000017/US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 4, 2007, 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 February 7, 2006. 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 March 8, 2006. A Notice of Abandonment was mailed October 5, 2006.

Applicant files the present 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.

Applicant's request for a refund is dismissed. Applicant is advised that it is Applicant's responsibility to file a complete and proper reply as the condition of the case requires. See, In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). (A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. (Emphasis supplied).

This application is being forwarded to Technology Center Art Unit 1712 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

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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OCT 0 2 2006

OFFICE OF PETITIONS

Applicant: Franczyk
Appl. No.: 10/868,236
Filing Date: June 15, 2004
Title: METHOD FOR PREPARING FORMYLPHOSPHONIC ACID
Pub. No.: US 2004/0225147 A1
Pub. Date: November 11, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on November 16, 2004, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the publication does not include the preliminary amendment to the specification submitted on filing, which deleted the first paragraph.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake with respect to the preliminary amendment to the specification. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the specification in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

[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 Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. The preliminary amendments to the specification filed January 12, 2005, does not comply with 37 CFR 1.125(b). The Office correctly published the application in accordance with 37 CFR 1.215(a).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on November 15, 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.

It would greatly benefit the Office if applicant did not provide copies of the application papers, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not

readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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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FAY SHARPE/LUCENT
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115-1843

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of
Edward G. Brunell et al
Application No. 10/868,239
Filed: June 15, 2004
Attorney Docket No. LUTZ

DECISION ON PETITION

This is a decision on the petition, filed December 29, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed April 30, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 20, 2008.

Petitioner asserts that the Office action dated April 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received 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.

This application is being referred to the Technology Center technical support staff of Art Unit 2192 for re-mailing the Office action of April 30, 2008. The period for reply will run from the mailing date of the Office action.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/868,239	06/15/2004	Edward G. Brunell	LUTZ 2 00324

CONFIRMATION NO. 5596

POA ACCEPTANCE LETTER

48116
FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

OC000000036467870

Date Mailed: 06/15/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/29/2008.

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.

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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399 PARK AVENUE
NEW YORK, NY 10022

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Vladimir Vasilenko :
Application No. 10/868,254 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. GOW-010-US2 :
(0109144.138-

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2008 to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 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) were obtained. Accordingly, the application became abandoned on January 12, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1794 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 5 2004

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

In re Application of
Boris Shurkovich et al
Serial No.: 10/868,262
Filed: June 15, 2004
Attorney Docket No.: 53663-5029

: PETITION TO MAKE SPECIAL

This is in response to applicants petition filed October 15,2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number, 703-872-9306.

Jean F. Vollano
Special Program Examiner
Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of
OKSENBERG, Donna et al.
Application No. 10/868,267
Filed: June 14, 2004
Attorney Docket No. **MHK-087-012**

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 26, 2008.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to FENWICK & WEST LLP has been revoked by the assignee of the patent application on February 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **PAUL N. KING**
KING PLLC
FIFTH FLOOR
1201 PENNSYLVANIA AVE. NW
WASHINGTON DC 20004

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United States Patent and Trademark Office
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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

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SEP 2 4 2008

In re Application of
Lee et al.
Application No. 10/868,268
Filed: September 15, 2004
Attorney Docket No. 045471-0141

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 27, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on December 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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James G. Vouros
Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106

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AUG 2 8 2008

In re Application of :
Michael W. Linsen, et. al. :
Application No. 10/868,287 : ON PETITION
Filed: June 15, 2004 :
Attorney Docket No. A01569 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 17, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed December 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 1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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NICHOLAS V. SHERBINA
TOWNSEND AND TOWNSEND AND CREW LLP
601 UNION ST STE 5400
TWO UNION SQUARE
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
Michael V. Chobotov, et al. :
Application No. 10/868,292 : DECISION ON REQUEST
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 021630-000910US : 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 16, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Nicholas V. Sherbina and all the attorneys/agents associated with Customer No. 20350 has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GAZDZINSKI & ASSOCIATES
Suite 375
11440 West Bernardo Court
San Diego, CA 92127

In re Application of :
Robert F. Gazdzinski, et al. :
Application No. 10/868,293 : DECISION ON PETITION
Filed: June 14, 2004 : TO MAKE SPECIAL
For: ADAPTIVE HOLOGRAPHIC WIDEBAND :
COMMUNICATIONS APPARATUS AND :
METHODS

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed June 14, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Lowell Rosen, stating that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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HOLLYWOOD, FL 33022-2480

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OFFICE OF PETITIONS

In re Application of Efferenn et al. :
Application No. 10/868,309 : Decision on Petition
Filing Date: June 15, 2004 :
Attorney Docket No. RSW-S3060 :

This is a decision on the petition under 37 CFR 1.137(a), filed May 23, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 5, 2005, which set a statutory period for reply of three (3) months. A reply was not received. Accordingly, the above-identified application was deemed abandoned as of January 6, 2006. A Notice of Abandonment was mailed on April 3, 2006.

Petitioner contends, and has established, non-receipt of the Notice of Allowance.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A new Notice of Allowance and Fee(s) Due will be mailed and the period for reply will be re-started. Since petitioner did not receive the Notice of Allowance, it is presumed petitioner did not receive the Notice of Allowability. Therefore, both the Notice of Allowance and Notice of Allowability mailed October 5, 2005, are vacated.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee has been credited to petitioner's deposit account as requested.

Technology Center Art Unit 1763 will be informed of the instant decision and the Technology Center's technical support staff will mail a new Notice of Allowance and Notice of Allowability, including the attached examiner's amendment. The time period for responding to the new Notice of Allowance will be set to run from the mailing date of the new Notice of Allowance.

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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BOCA RATON, FL 33487

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Thomas L. Distefano III :
Application No.: 10/868312 : ON PETITION
Filing or 371(c) Date: 06/15/2004 :
Attorney Docket Number: 1115-6DIV :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed January 5, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed June 1, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 2, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2178 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

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Robert F. Gazdzinski, Esq.
Gazdzinski & Associates
Suite 375
11440 West Bernardo Court
San Diego, CA 92127

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Lowell Rosen et al.
Application No. 10/868,316
Filed: June 14, 2004
For: HOLOGRAPHIC COMMUNICATIONS USING MULTIPLE CODE STAGES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed June 14, 2004 under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Lowell Rosen, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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OFFICE OF PETITIONS

In re Application of :
David Wolf :
Application No. 10/868,324 : DECISION ON PETITION
Filed: June 15, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. W0034.70023US01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 27, 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 statement from Inventor David Wolf stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3713 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:
IMAMOTO, YASUNORI ET AL.
Serial No.: 10/868,362
Filed: June 16, 2004
Docket: Q82090
Title: GOLF CLUB HEAD

DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed December 29, 2004 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled Proprietary Information Disclosure Statement, filed December 29, 2004, be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;

(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and

(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met requirements A, B, C, D and E.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information

which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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9/26/07

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

In re Application of: IMAMOTO, YASUNORI et al:
Appl. No.: 10/868,362 : DECISION ON PETITION
Filed: Jun. 16, 2004 : Under 37 CFR 1.59
For: Golf Club Head :

This is a response to the petition under 37 CFR 1.59(b), filed on December 29, 2004 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement under M.P.E.P. § 724 filed on December 29, 2004 be expunged from the record. In the earlier decision mailed on Aug. 8, 2006, petitioner was informed that the requested relief was held in abeyance until allowance of the application. On Aug. 3, 2007, a notice of allowance was mailed. The information in question also has been determined by the undersigned to not be material to the examination of the instant application.

In view of the fact that petitioner has met the requirements of MPEP 724.05(I) as indicated in the earlier decision mailed on Aug. 8, 2006, the proprietary information disclosure statement filed on December 29, 2004 is now removed from the official file and will be returned in due course.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

Petition to expunge GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:
IMAMOTO, YASUNORI ET AL.
Serial No.: 10/868,363
Filed: June 16, 2004
Docket: Q82091
Title: GOLF CLUB HEAD

DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed December 29, 2004 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled Proprietary Information Disclosure Statement, filed December 29, 2004, be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;

(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and

(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met requirements A, B, C, D and E.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information

which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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In re Application of: IMAMOTO et al
Serial No.: 10/868,363
Filed: June 16, 2004
Title: GOLF CLUB HEAD

SEP 27 2007

DECISION ON PETITION UNDER 37 C.F.R. 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed December 29, 2004, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents entitled, "Propritary Information Disclosure Statement," filed on Decmeber 29, 2004, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application. The expunged material has been removed from the official file. The material has been shredded.

Petition to expunge GRANTED.

Any questions regarding this decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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In re Application of:
IMAMOTO, YASUNORI ET AL.
Serial No.: 10/868,364
Filed: June 16, 2004
Docket: Q82072
Title: GOLF CLUB HEAD

DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed December 29, 2004 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled Proprietary Information Disclosure Statement, filed December 29, 2004, be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;

(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and

(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met requirements A, B, C, D and E.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information

which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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9/27/07

In re Application of :
IMAMOTO, YASUNORI et al :
Appl. No.: 10/868,364 : DECISION ON PETITION
Filed: Jun. 16, 2004 : Under 37 CFR 1.59
For: Golf Club Head :

This is a response to the petition under 37 CFR 1.59(b), filed on December 29, 2004 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement under M.P.E.P. § 724 filed on December 29, 2004 be expunged from the record. In the earlier decision mailed on Aug. 8, 2006, petitioner was informed that the requested relief was held in abeyance until allowance of the application. On Sep. 21, 2007, a notice of allowance was mailed. The information in question also has been determined by the undersigned to not be material to the examination of the instant application.

In view of the fact that petitioner has met the requirements of MPEP 724.05(I) as indicated in the earlier decision mailed on Aug. 8, 2006, the proprietary information disclosure statement filed on December 29, 2004 is now removed from the official file and has been shredded.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

Petition to expunge GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of	:	
Gray SHAW et al	:	
Application No. 10/868,371	:	DECISION ON PETITION
Filed: 6/14/2004	:	
Attorney Docket No. 22058-583 (AM101290)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 3/28/2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of 6/15/2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three-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 12/16/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Since this application was abandoned on 12/16/2007, the examiner had no procedural authority with respect to the abandoned application on or after 12/16/2007. Lorenz v. Finkl, 333 F.2d 885, 891 142 USPQ 26, 30 (CCPA 1964). While it is unfortunate that the examiner restarted the shortened statutory period, such action by the examiner was performed without proper authority, and thus, had no force and effect. The examiner's action(s) subsequent to 12/16/2007, including the restarting of the shortened statutory period, cannot have the effect of saving this application from abandonment, because an examiner has no power to revive an abandoned application. Lorenz, supra. The Office action of 4/2/2007 was mailed in error, and is vacated.

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 1656 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David A. Bucci
Petitions Examiner
Office of Petitions

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MADISON NJ 07940

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OFFICE OF PETITIONS

In re Application of	:	
Shaw et al.	:	
Application No. 10/868,371	:	ON APPLICATION FOR
Filed: June 14, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
22058-583001US (AM101290)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed on November 11, 2009. Applicants request that the determination of patent term adjustment be corrected from 0 days to 109 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **GRANTED TO THE EXTENT INDICATED**.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **GRANTED TO THE EXTENT INDICATED**.

---

[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 has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On August 11, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 0 days (0 days of PTO delay and 271 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants aver that the 91 day period of reduction for the filing of a reply to the non-final action mailed on September 22, 2006, should be removed and replaced with a 90 day period of reduction, because a reply to that Office action was filed on March 22, 2007, not March 23, 2007, as indicated in Office PALM records.

Upon review, applicants are correct that the reply was filed on March 22, 2007, not March 23, 2007. As the reply filed on March 22, 2007, was filed three months and 90 days after the mailing of the non-final Office action mailed on September 22, 2006, the 91 day period of reduction will be removed, and a 90 day period of reduction will be entered.

Applicants state that an additional period of reduction of 22 days for applicant delay should be assessed for the filing, on August 23, 2006, of a supplemental reply, filed 22 days after the filing of the reply filed on August 1, 2006.

37 CFR 1.703(a)(3) states that the period of adjustment for Office delay is the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

---

[2] PALM Records indicate that the issue fee was paid on November 11, 2009.

Applicants' assertion is not well taken. On May 1, 2006, a final Office action was mailed. On August 1, 2006, a reply was filed. On August 17, 2006, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply fails to place the application in condition for allowance. As such, the reply filed August 1, 2006, was not a reply in compliance with § 1.113(c), however, because the reply did not place the application in condition for allowance. On August 23, 2006, an additional reply was filed, and on September 22, 2006, an Office action was mailed in response to the reply filed on August 23, 2006. Accordingly, the reply filed on August 23, 2006 was not a supplemental reply within the meaning of § 1.704(c)(8). Therefore, entry of a period of delay is not warranted.

On June 15, 2007, a final Office action was mailed. The reply filed on December 17, 2007, was not a proper reply under § 1.113(c). On March 28, 2008, three (3) months and 195 days after the mailing of the final Office action mailed on June 15, 2007, a proper reply, in the form of a notice of appeal, was filed.

37 CFR 1.704(b) states that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Accordingly, entry of a period of reduction of 195 days is warranted for the filing of a reply on March 28, 2008, three (3)

months and 195 days after the mailing of the final Office action mailed on June 15, 2007.

It is further noted that the application became abandoned on December 16, 2007, for failure to timely file a proper reply to the final Office action mailed on June 15, 2007. In this regard a three month extension of time and amendment were timely filed on Monday, December 17, 2007, but did not constitute a proper reply to the final Office action. On March 28, 2008, a petition to revive and notice of appeal were filed. On May 28, 2008, the petition to revive was granted.

37 CFR 1.704(c)(3) states:

> 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;

The application became abandoned on December 16, 2007. As a decision reviving the application was mailed on May 28, 2008, within four months of the date the grantable petition was filed, March 28, 2008, the period of reduction is the period beginning on the date of abandonment, December 16, 2007, and ending on the date a decision reviving the application was mailed, May 28, 2008, or 165 days.

The 195 day period under § 1.704(b) from the date three months after the mailing of the final rejection mailed on September 15, 2007, to the date a proper reply was filed, on March 28, 2008, overlaps with the 165 day period under § 1.704(c)(3), which is

the period beginning on the date of abandonment, December 16, 2007, and ending on the date a proper reply (and petition to revive) were filed, March 28, 2008. The period of overlap is the period beginning on December 16, 2007, the date of abandonment of the application, and ending on March 28, 2008, the date a grantable petition and proper reply to the Office action were filed, or 104 days. The non-overlapping period is 256 days (195 + 165 - 104 overlap).

The 93 day period of reduction for the filing a reply on December 17, 2007, three months and 93 days after the mailing of a final Office action on June 15, 2007 will be removed because the reply filed on December 17, 2007, was not in compliance with 37 CFR 1.113(c). Further, the nine (9) day period of reduction for the filing of an improper RCE in response to the non-final Office action mailed on April 2, 2008 is removed because the non-final Office action of April 2, 2008, was vacated by the decision granting petition mailed on May 28, 2008.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (0 days of Office delay less 424 (48 + 28 + 90 + 256 + 2) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Encl: Updated PALM Calculation

Cc:

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

Day : Saturday
Date: 4/24/2010

PALM INTRANET

Time: 09:38:23

PTA Calculations for Application: 10/868371			
Application Filing Date:	06/14/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	271
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-153		

File Contents History

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114	08/11/2009	MAIL NOTICE OF ALLOWANCE			
113	08/10/2009	ISSUE REVISION COMPLETED			
112	08/10/2009	DOCUMENT VERIFICATION			
111	08/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
110	08/07/2009	EXAMINER'S AMENDMENT COMMUNICATION			
109	08/07/2009	NOTICE OF ALLOWABILITY			
106	07/28/2009	DATE FORWARDED TO EXAMINER			
105	07/27/2009	AMENDMENT AFTER FINAL REJECTION			
104	04/27/2009	MAIL FINAL REJECTION (PTOL - 326)			
103	04/24/2009	FINAL REJECTION			
102	03/17/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
99	03/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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97	01/12/2009	RESPONSE AFTER NON-FINAL ACTION		2	96
96	10/10/2008	MAIL NON-FINAL REJECTION			
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94	10/08/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
93	10/10/2008	MAIL NOTICE OF WITHDRAWN ACTION			
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86	09/29/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
		NOTICE OF INFORMAL OR NON-RESPONSIVE			

85	09/26/2008	RCE AMENDMENT.			
84	08/07/2008	DATE FORWARDED TO EXAMINER			
83	07/11/2008	RCE- AF PROCESSED			
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81	07/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		9	68
80	08/07/2008	DISPOSAL FOR A RCE / CPA / R129			
79	08/01/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
78	07/31/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
73	07/11/2008	IMPROPER REQUEST FOR CONTINUED EXAMINATION			
72	07/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
71	05/28/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
70	05/28/2008	PETITION TO REVIVE APPLICATION - GRANTED			
69	03/28/2008	PETITION ENTERED			
68	04/02/2008	MAIL NON-FINAL REJECTION			
67	03/31/2008	NON-FINAL REJECTION			
65	03/25/2008	MAIL ADVISORY ACTION (PTOL - 303)			
64	03/21/2008	ADVISORY ACTION (PTOL-303)			
61	03/14/2008	DATE FORWARDED TO EXAMINER			
60	12/17/2007	AMENDMENT AFTER FINAL REJECTION		93	57
59	12/17/2007	MISCELLANEOUS INCOMING LETTER			
58	12/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	06/15/2007	MAIL FINAL REJECTION (PTOL - 326)			
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55	04/03/2007	DATE FORWARDED TO EXAMINER			
54	03/23/2007	RESPONSE AFTER NON-FINAL ACTION		91	51
53	03/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	10/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
51	09/22/2006	MAIL NON-FINAL REJECTION			
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49	08/31/2006	DATE FORWARDED TO EXAMINER			
48	08/23/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			

47	08/17/2006	MAIL ADVISORY ACTION (PTOL - 303)			
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45	08/01/2006	NOTICE OF APPEAL FILED			
44	08/01/2006	NOTICE OF APPEAL FILED			
43	05/01/2006	MAIL FINAL REJECTION (PTOL - 326)			
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38	11/02/2005	MAIL NON-FINAL REJECTION			
37	10/31/2005	NON-FINAL REJECTION			
36	09/13/2005	DATE FORWARDED TO EXAMINER			
35	08/31/2005	RESPONSE AFTER NON-FINAL ACTION			
34	06/01/2005	MAIL NON-FINAL REJECTION			
33	05/31/2005	NON-FINAL REJECTION			
32	04/29/2005	DATE FORWARDED TO EXAMINER			
31	04/13/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
30	04/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	04/13/2005	REFERENCE CAPTURE ON IDS			
28.7	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	02/22/2005	MAIL RESTRICTION REQUIREMENT			
26	02/18/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
25	01/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	01/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	12/21/2004	PRELIMINARY AMENDMENT			
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21	01/18/2005	APPLICATION RETURN FROM OIPE			
20	01/18/2005	APPLICATION RETURN TO OIPE			
19	01/18/2005	APPLICATION RETURN FROM OIPE			
18	01/18/2005	APPLICATION IS NOW COMPLETE			
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15	01/18/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
14	01/18/2005	APPLICATION RETURN TO OIPE			
13	01/18/2005	APPLICATION DISPATCHED FROM OIPE			
12	01/18/2005	APPLICATION IS NOW COMPLETE			
11	12/21/2004	ADDITIONAL APPLICATION FILING FEES			
9	12/21/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	07/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
7	08/03/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	07/23/2004	CLEARED BY OIPE CSR			
5	07/23/2004	CASE CLASSIFIED BY OIPE			
4	07/02/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	06/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	06/14/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/14/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony J.M. Garwood	:	
Application No. 10/868,394	:	ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. CRSL122901	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 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 August 8, 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) were obtained. Accordingly, the application became abandoned on September 9, 2007. The Notice of Abandonment was mailed February 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,115 extension of time fee submitted with the petition on February 27, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being forwarded to Technology Center AU 1794 for appropriate action on the concurrently filed election.

Chris Bottorff
Petitions Examiner
Office of Petitions

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SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Anthony J.M. Garwood	: DECISION ON REQUEST FOR
Patent Number	: 7666456	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1408** 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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David Buehler
893 West 2150 North
Provo UT 84604

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Buehler :
Application No. 10/868,402 :
Filed: June 14, 2004 :
Attorney Docket No. N/A :
For: PAYLOAD FAIRING SEPARATION SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed June 2, 2005, which set an extendable one month period for reply. The application became abandoned on July 3, 2005. A Notice of Abandonment was mailed on December 19, 2005.

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 Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above. The enclosed copy of the reply to the June 2, 2005 Office action appears to be missing from the petition. Please send an additional copy of the reply allegedly mailed on June 29, 2005.

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.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 05/04/2010

Applicant	: Richard W. Buskens	: DECISION ON REQUEST FOR
Patent Number	: 7614055	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/868,404	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1008** 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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Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 05/25/2010

Applicant	: Andreas Hadjicostis	: DECISION ON REQUEST FOR
Patent Number	: 7628785	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/868,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Robert F. Gazdzinski, Esq.
Gazdzinski & Associates
Suite 375
11440 West Bernardo Court
San Diego, CA 92127

MAIL

SEP 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Lowell Rosen et al. :
Application No. 10/868,420 : DECISION ON PETITION
Filed: June 14, 2004 : TO MAKE SPECIAL
For: WIDEBAND HOLOGRAPHIC :
COMMUNICATIONS APPARATUS AND :
METHODS

This is a decision on the petition to make special filed June 14, 2004 under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Lowell Rosen, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Yang et al. :
Application No. 10/868,421 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Dkt No.: IB-1892 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a reply to a non-final Office Action mailed December 1, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 2, 2006. A Notice of Abandonment was mailed on July 3, 2006.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and 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.

This petition is hereby **GRANTED**.

Petitioner submitted a request for a three (3) month extension of time with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time 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) Petitioner's five (5) month maximum extendable period expired on June 1, 2006. Petitioner is ineligible for any extensions of time. Thus, deposit account no. 12-0690 will be credited with the $1080.00 submitted to obtain the five month extension of time.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of
Michael J. Riebel
Application No. 10/868,424
Filed: June 14, 2004
Attorney Docket No. 14399.3USU1

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 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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Robert F. Gazdzinski, Esq.
Gazdzinski & Associates
Suite 375
11440 West Bernardo Court
San Diego, CA 92127

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SEP 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Lowell Rosen et al. :
Application No. 10/868,433 : DECISION ON PETITION
Filed: June 14, 2004 : TO MAKE SPECIAL
For: SCALABLE TRANSFORM WIDEBAND :
HOLOGRAPHIC COMMUNICATIONS :
APPARATUS AND METHODS

This is a decision on the petition to make special filed June 14, 2004 under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Lowell Rosen, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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JOHN M. PAOLINO, ESQ.
BAYER HEALTHCARE
511 BENEDICT AVENUE
TARRYTOWN, NY 10591

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Volker et al.	:	
Application No. 10/868,437	:	ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. MST-2328-CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 2005, 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.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 20, 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 timely obtained. Accordingly, the above-identified application became abandoned on December 21, 2004. A Notice of Abandonment was mailed on July 18, 2005.

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.

The instant petition lacks item (1). The Office acknowledges receipt of the Oath/Declaration, along with the late surcharge, which has been charged to petitioner's deposit account, with the instant petition. However, the Notice also indicated that another item was missing. As stated in the Notice,

> This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published a 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

After a review of the documents submitted with the instant petition, it appears the above item has not yet been submitted. Submission of the required item is necessary to revive the instant application.

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 $2160.00 extension of time fee submitted with the petition on October 3, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's 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 Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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[2] See MPEP 711.03(c)(III)(C) and (D).

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JOHN M. PAOLINO, ESQ.
BAYER HEALTHCARE
511 BENEDICT AVENUE
TARRYTOWN, NY 10591

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Volker et al.	:	
Application No. 10/868,437	:	ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. MST-2328-CIP	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed November 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 06/28/2010

Applicant	: Michael Volker	: DECISION ON REQUEST FOR
Patent Number	: 7668661	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/868,437	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** 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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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MAY 12 2008

In re Application of :

TURIN, Luca :
Application No. 10/868,489 : DECISION ON PETITION
Filed: June 15, 2004 : TO WITHDRAW
Attorney Docket No. **F081 1010.1** : 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 29, 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 Edward Kondracki on behalf of all attorneys of record who are associated with customer No. 00181. All attorneys/agents associated with the Customer Number 00181 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 14, 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: **LUCA TURIN**
119 ALBERT STREET
LONDON ENGLAND, NW1
GREAT BRITIAN

cc: **JACQUELIN GRANT FLEXITRAL, INC.**
4001-A WESTFAX DRIVE
CHANTILLY, VA 20151

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091204

DATE : December 7, 2009

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7116150

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** **All** changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Only the change to claim 8 is approved. The changes to claim 15 are not approved, because they were not in the amendment dated 06/26/06 as applicant states in the certificate of correction.

SPE: /Donovan Lincoln/ **Art Unit** 2816

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Robert W. Bond	: DECISION ON REQUEST FOR
Patent Number	: 7584274	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1124** 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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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 05/17/2010

Applicant : Robert W. Bond
Patent Number : 7584274
Issue Date : 09/01/2009
Application No: 10/868,542
Filed : 06/15/2004

: 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 **1172** 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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FEB 16 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THELEN REID BROWN RAYSMAN & STEINER, LLP
900 Third Avenue
New York NY 10022

In re Application of:
JIN, CHENG et al.
Application No. 10/868564
Filed: June 14, 2004
For: **METHOD AND APPARATUS FOR NETWORK CONGESTION CONTROL**

DECISION ON PETITION TO MAKE SPECIAL

FEB 16 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
MAIL

This is a decision on the petition filed May 01, 2006 under MPEP§708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to fully meet requirement (6) inasmuch as there is no clear discussion of the patentable novelty over the references as required by 37 CFR §1.111 (c). Applicant' petition provides a discussion of the references with respect to the claimed invention in general. References 1-10 and 12-26 indicate the distinction of each of the references from the claims is use of a queueing delay for congestion control. However, this limitation is only found in independent claim 1. There is no discussion of how independent claims 2, 4, and 5 are distinct from these references. Reference 12 indicates the distinction from the claimed invention is "the control of a window is decoupled from a packet loss event". However, this limitation is not claimed in any of the independent claims 1, 2, 4, and 5. Therefore, the petition does not satisfy the requirement that the petition **must** fully discuss the references, pointing out with the particularity 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Michael Horabik
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Scott E. Lipsky	: DECISION ON REQUEST FOR
Patent Number	: 7624072	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1363** 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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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Sinclair :
Application No. 10/868,603 : ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. MSFT-4157 :

This is a decision on the petition filed February 2, 2006 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is GRANTED.

This application became abandoned July 19, 2005 for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 18, 2005. Accordingly, a Notice of Abandonment was mailed November 28, 2005.

Petitioner claims that the Notice of Allowance mailed April 18, 2005 was never received. Petitioners provide a copy of the docket report, wherein receipt of the Notice of Allowance and Notice of Allowability mailed April 18, 2005 would have been filed, had they been received. To show that the Notices mailed April 18, 2005 were not received, petitioner explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO and documents the procedures used for handling of USPTO correspondence. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance and Notice of Allowability were never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

The file is being forwarded to Technology Center 2851 for the remailing of the Notice of Allowance and Notice of Allowability originally mailed on April 18, 2005. Telephone inquiries concerning the remailing of the Notices should be referred to the Technology Center. All other inquiries regarding this decision 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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BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA, NY 14850-1248

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NOV 10 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Finlay et al. :
Application No. 10/868,610 :
Filed: June 15, 2004 :
Attorney Docket No. 905P075CIP2(E) :

This is a decision on the petition filed August 13, 2004, requesting entry of Figure 15 submitted on August 13, 2004.

The petition is **dismissed**.

On June 15, 2004, the instant application was filed without Figure 15. A Notice of Missing Parts was mailed on August 4, 2004. It stated that a filing date of June 15, 2004, had been accorded and that Figure 15 was missing. The Notice gave petitioner three options:

(1) File a petition, petition fee, and evidence establishing that the missing Figure was submitted to the PTO on June 15, 2004.
(2) File a petition, petition fee, the missing Figure, and request a filing date as of the date that the petition and missing Figure is submitted.
(3) Accept the application as deposited.

Petitioner apparently has chosen option (3).

The petition does not seek to prove that the drawing submitted on August 13, 2004, was present at the time the original application was submitted. Petitioner does not request a filing date of August 13, 2004 (the date Figure 15 was supplied). Instead, petitioner simply seeks to amend the application to include Figure 15. However, no petition is necessary for that purpose. New drawings may be entered by an examiner without petition so long as the new drawings contain no new matter. See MPEP 608.02(a). Accordingly, the petition is inappropriate and is subject to dismissal.

The drawing filed with the petition is withdrawn and will not be entered or used during the prosecution of this application. However, petitioner may resubmit the drawing as part of a preliminary amendment and such an amendment will be considered by the examiner for entry of new matter not described in the application as filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 15, 2004, using only the application papers filed on June 15, 2004.

Telephone inquiries 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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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Workman Nydegger (F/K/A Workman Nydegger & Seeley)
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

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DEC 21 2004

OFFICE OF PETITIONS

In re Application of :
Oyadomari et al. : DECISION ACCORDING STATUS
Application No. 10/868,631 : UNDER 37 CFR 1.47(a)
Filed: June 14, 2004 :
Attorney Docket No. 15436.148.2 :

This is in response to the petition under 37 CFR 1.47(a), filed November 24, 2004. Petitioner obtained a two-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner has shown that Stephen Strong, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of William Athay, attorney for petitioner, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but refused the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to Technology Center Art Unit 2141.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Stephen Strong
273 Pegosa Way
Fremont CA 94539

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DEC 21 2004

OFFICE OF PETITIONS

In re Application of :
Oyadomari et al. : LETTER
Application No. 10/868,631 :
Filed: June 14, 2004 :
Attorney Docket No. 15436.148.2 :

Dear Mr. Strong:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Workman Nydegger (F/K/A Workman Nydegger & Seeley)
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

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OFFICE OF PETITIONS

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

In re Application of :
Randy Oyadomari, et al. :
Application No. 10/868,631 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 15436.148.2 :

This is a decision on the petition, filed October 7, 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 **DISMISSED**.

This application was held abandoned for failure to reply to the Notice of Allowability (Notice) mailed June 4, 2009 which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 7, 2009.

A review of the record discloses that the petitioner timely filed the issue and publication fees to the Notice of Allowance and Fee(s) due, however, the petitioner failed to file a reply to the Notice of Allowability mailed June 4, 2009. The Notice of Allowability required applicant to file a new oath or declaration. While petitioner argues that the examiner gave no reason for the requirement of a new oath or declaration petitioner is required to respond in a timely manner to examiner's requirement. See 35 U.S.C 133. As petitioner did not file a timely response to the examiner's requirement the petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment cannot be granted at the present time.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In non-provisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office Data Management at their hotline 571-272-4200.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated June 4, 2009.

Notice of Allowability	Application No.	Applicant(s)	
	10/868,631	OYADOMARI ET AL.	
	Examiner	Art Unit	
	Kenneth R. Coulter	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Amendment on 2/11/09 and Interview on 5/22/09*.

2. ☒ The allowed claim(s) is/are *1-28*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 10/22/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *5/22/09* .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Jones on 5/22/09.

The application has been amended as follows:

after "method" (claim 1, line 2) insert -- performed by a computing system including a hardware processor and memory --;

after "method" (claim 23, line 2) insert -- performed by a computing system including a hardware processor and memory --.

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:
The prior art of record does not specifically disclose or remotely suggest

With regard to independent claims 1 and 14:

defining a domain within the system, wherein the domain is a logically grouped set of ports which exist within more than one chassis of the system such that a single user controls all or the ports within the domain simultaneously.

With regard to independent claim 23:

designating a particular chassis in the chain as a master chassis; and

the master chassis coordinating the interaction of each chassis.

In addition, Examiner points to the arguments of Applicant's representative (Arguments/Remarks on 2/11/09; pp. 9 – 12).

2. These limitations, in conjunction with the other limitations in the independent claims, are not specifically disclosed or remotely suggested in the prior art of record.

A review of claims 1 – 28, in view of the Examiner's arguments above, indicates that claims 1 – 28 are allowable over the prior art of record.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on M - F, 7:30 am - 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. 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.

/Kenneth R Coulter/
Primary Examiner, Art Unit 2454

/KRC/

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
Codd et al.	:	
Application No. 10/868,633	:	DECISION ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. ORT-1465DIV1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on January 30, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 11/06/07

Patent No. : 6987885 B2
Ser. No. : 10/868,639
Inventor(s) : GONZALEZ-BANOS, HECTOR H.
Issued : 01/17/06
Title : **SYSTEMS AND METHODS FOR USING VISUAL HULLS TO DETERMINE THE NUMBER OF PEOPLE IN A CROWD**
Docket No. : 23085-08033

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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

LMN

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/868,641 : ON PETITION
Filed: 06/14/2004 :
Attorney Docket No. EZINT4.002C1 :

This is a decision on the petition under 37 CFR 1.47(a),[1] filed June 27, 2008, which is being treated under 37 CFR 1.183 to waive the requirement that all of the named inventors execute the declaration under 37 CFR 1.131.

The petition is granted to the extent indicated.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventor Ji-Woong Lee was available to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to November 19, 2001.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question. In the present petition, petitioners have set forth the steps taken to obtain the signature of joint inventor, Myung-Ki Shin, on the declaration under 37 CFR 1.131. Petitioners have shown that a *bona fide* effort was made to present the declaration under 37 CFR 1.131 and supporting documentation to inventor Shin for his signature. Specifically, petitioners attempted to contact Shin via telephone. Additionally, petitioners sent a copy of the declaration under 37 CFR 1.131 to Shin via registered mail, which was subsequently returned to sender. Petitioners provided sufficient evidence of their efforts to present the declaration under 37 CFR 1.131 to Shin.

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original oath or declaration under 37 CFR 1.63.

Under the facts presented, it is agreed that justice requires waiver of the requirement that all of the named inventors execute the declaration under 37 CFR 1.131. However, this favorable decision does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

The fee of $400.00 for filing the present petition under 37 CFR 1.183 will be charged to the Deposit Account as previously authorized.

This application is being referred to Technology Center AU 2416 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3211. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/868,656	06/15/2004	2122	1008	LUTZ 2 00323	8	26	3

CONFIRMATION NO. 4481

Richard J. Minnich, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2518

UPDATED FILING RECEIPT

OC000000014243904

Date Mailed: 11/02/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Edward G. Brunell, Chicago, IL;
Kwok-Chien Choy, Wayne, NJ;
Shankar Krishnamoorthy, Scotch Plains, NJ;
Xiangyang Shen, Naperville, IL;
Manjula Sridhar, Lisle, IL;
Dong Zhao, Lisle, IL;

Power of Attorney: The patent practitioners associated with Customer Number **22046**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/868,656

Projected Publication Date: 12/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Distribution adaptor for network management application development

Preliminary Class

717

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).

17 AUG 2004

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Sarah A. Kagan
Banner & Witcoff
1001 G Street, NW
Suite 1100
Washington, DC 20001

In re Application of	:	
VOGELSTEIN et al.	:	
U.S. Application No.: 10/868,658	:	DECISION ON PETITION
Filing Date: 16 June 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 01107.00482	:	
For: PHOSPHATE ASSOCIATED WITH METASTASIS	:	

This is a decision on applicant's "Petition to Revive under CFR 1.137(b)" filed 16 June 2004 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been paid.

BACKGROUND

On 02 October 2002, applicant filed international application PCT/US02/31247 which claimed a priority date of 09 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 09 April 2004.

On 16 June 2004, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (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 pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/US02/31247 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

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United States Patent and Trademark Office
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MICROSOFT CORPORATION
C/O MERCHANT & GOULD
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Roy Kayahara et al :
Application No. 10/868,661 : DECISION GRANTING PETITION
Filed: June 15, 2004 :
Attorney Docket No. 60001.0324US01/MS308112.1 :

This is a decision on the petition under 37 CFR 1.10(d) filed September 7, 2004, requesting that the above-identified application be accorded a filing date of June 15, 2004, rather than the presently accorded filing date of June 16, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 15, 2004, pursuant to the requirements of 37 CFR 1.10. However, while the Express mail label, receipt No. EV448876509US shows a "date-in" of June 16, 2004, it also includes an Official USPS postmark dated June 15, 2004. Petitioner alleges that the date of mailing shown by the Express Mail receipt is a USPS error and the correct date of mailing is June 15, 2004. In support, petitioner submitted,

- a statement of Angela Diamon, an administrative assistant with Merchant & Gould LLP;
- a statement of Kathleen Kearney, a receptionist and filing clerk with Merchant & Gould LLP;
- a "true" copy of the original transmittal letter, bearing the appropriate Express Mail label No. EV448876509US;
- a copy of the Express Mail Log Entry with the following headings: Applicant, Title, Docket, Express Mail No., Date of Deposit, and two initials.

In view of the above, the evidence is persuasive that the application was deposited as "Express Mail Post Office to Addressee" service on June 15, 2004. Accordingly, the instant application file is entitled to a filing date of June 15, 2004, and has been so accorded.

The petition is granted. The $130.00 petition fee is unnecessary and will be credited to petitioner's deposit account in due course.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing with a filing date of June 15, 2004.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks for

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/4/05 | 2 Serial/Patent # 10/868,661

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		9/7/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 3 -- 2 7 2 5

10 REASON:

	Overpayment
	Duplicate Payment
/	No Fee Due (Explanation):

unnecessary

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: WAN LAYMON TITLE: Pet. Exam

SIGNATURE: Wan Laymon PHONE:

OFFICE:

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Keller DATE: 2/15/05

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)

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Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
McLean, VA 22102

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Scott S. Sibbett :
Application No. 10/868,702 : DECISION ON PETITION
Filed: June 14, 2004 : TO WITHDRAW
Attorney Docket No. 070702008701 : 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, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Darby & Darby P.C.**
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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ROZSA LAW GROUP LC
18757 BURBANK BOULEVARD
SUITE 220
TARZANA CA 91356-3346

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of

Verhoeven, et al. :

Application No. 10/868,718

: DECISION ON PETITION

Filed: June 14, 2004

:

Attorney Docket No. 37170.004C

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 22, 2007, 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 June 23, 2007. A Notice of Abandonment was mailed October 2, 2007.

The amendment filed September 17, 2008, is noted.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply. The amount of $525.00 will be refunded in due course.

The application is being forwarded to Technology Center 2600, GAU 2624 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

K. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KOSAN BIOSCIENCES, INC.
3832 BAY CENTER PLACE
HAYWARD CA 94588

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Zong-Qiang Tian et al :
Application No. 10/868,724 : DECISION ON PETITION
Filed: June 14, 2004 :
Attorney Docket No. 010095.03 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application was abandoned for failure to timely reply to the Nonfinal Rejection of March 1, 2006, within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. **See Lorenz v. Finkl**, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the amendment is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE: T. Black

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/07

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/868,738 Patent No.: 7191044

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 3661

SPE **Art Unit**

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Paper No.

JONES DAY
555 WEST FIFTH STREET, SUITE 4600
LOS ANGELES CA 90013-1025

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of
Zhao et al.
Application No. 10/868,753
Filed: June 14, 2004
Attorney Docket No. 443788-100002

DECISION ON PETITION

This is a decision on the "PETITION TO ACCORD APPLICATION FILING DATE SHOWN ON EXPRESS MAIL LABEL 'DATE-IN' (C.F.R. § 1.10(c))[1]," filed October 8, 2004, requesting that the above-identified nonprovisional application be accorded a filing date of June 14, 2004, rather than the presently accorded filing date of June 15, 2004.

Applicants maintain that the above-identified application was deposited in the Express Mail Post Office to Addressee service of the USPS, pursuant to § 1.10 on June 14, 2004, and thus, is entitled to a filing date of June 14, 2004. In support thereof, applicants submit *inter alia*:

- a true copy of the "Express Mail Post Office to Addressee" mailing label No. EV 434369277 US; and
- a true copy of the Patent Application Transmittal Letter, Specification, Drawings, Information Disclosure Statement and Postcard, all of which bear "Express Mail" mailing label number EV 434369277 US thereon.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by

---

[1] § 1.10(c) 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 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, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, ...

other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal submitted is a true copy of the transmittal present in the application file, and both bear the "Express Mail" mailing label number (as do all of the application papers). Thus, petitioner has shown that this number was placed on the correspondence prior to the original mailing date. The "date-in" on the "Express Mail" mailing label is June 14 , 2004.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary. The petition fee has been refunded to Deposit Account No. 50-2468, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, being returned to OIPE for **correction of the filing date to June 14, 2004** and **issuance of a corrected filing receipt**.

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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OFFICE OF PETITIONS

IRELL & MANELLA LLP
1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES CA 90067

In re Application of
DEAN, at al.
Application No. 10/868,754
Filed: June 15, 2004
Attorney Docket No. 157835-0025

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 25, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 has requested our withdrawal and transfer", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on July 28, 2006 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Paul Backofen**
Crockett & Crockett PC
24012 Calle De La Plata
Laguna Hills, CA 92653

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
10/868,754	06/15/2004	Rick Dean	157835-0025

CONFIRMATION NO. 4079

OC000000021050966

29000
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

Date Mailed: 10/31/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received/is improper.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/868,754	06/15/2004	Rick Dean	157835-0025

CONFIRMATION NO. 4079

OC000000021050966

29000
IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

Date Mailed: 10/31/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received/is improper.

Paul Backofen
Crockett & Crockett PC
24012 Calle De La Plata
Laguna Hills, CA 92653

MONICA A GRAVES
OP (571) 272-7253

NEW ATTORNEY/AGENT COPY

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IRELL & MANELLA LLP
1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES, CA 90067

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
DEAN, et al. :
Application No. 10/868,754 :
Filed: June 15, 2004 :
Attorney Docket No. **212/779** :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed December 6, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed May 2, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CROCKETT & CROCKETT**
24012 CALLE DE LA PLATA, SUITE 400
LAGUNA HILLS, CA 92653

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Elias C. Borges
Suite 406
555 Burnhamthorpe Road
Toronto ON M9C 2Y3 CA CANADA

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Manuel Gomes et al :
Application No. 10/868,757 :
Filed: June 17, 2004 :
Attorney Docket No. 02-1742 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 29, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 26, 2006. Accordingly, the date of abandonment of this application is December 30, 2006. A. Notice of Abandonment was mailed on January 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUL 01 2008

Director's Office
Group 3700

S.C. Johnson & Son, Inc.
1525 Howe Street
Racine, WI 53403-2236

In re application of
Edward Martens, et al.

Serial Number: 10/868,777
Filed: June 17, 2004

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **LIQUID ATOMIZING DEVICE WITH REDUCED SETTLING OF ATOMIZED LIQUID DROPLETS**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700
571-272-3750

rt/ 6/30/08

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MARTIN MOYNIHAN
c/o ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY
SUITE 207
ARLINGTON, VA 22202

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
Tamar Lotan et al. :
Application No. 10/868,802 : ON PETITION
Filed: June 17, 2004 :
Attorney Docket No. 27931 :

This is a decision on the petition filed on January 31, 2006 to withdraw the holding of abandonment, which is treate under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on June 17, 2005, for failure to timely file a response to the non-Final Office Action mailed February 14, 2005, by a registered patent attorney or agent pursuant to 37 CFR 1.34. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on January 24, 2006.

Petitioner, the agent of record, asserts that a proper response in the form of an amendment was timely filed on May 27, 2005 with a one month extension of time request by Sol Sheinbein, a registered attorney.

A search of the application file and the USPTO records reveals that in fact Mr. Sheinbein was, pursuant to 37 CFR 1.34, a registered attorney at the time the response was filed on May 27, 2005. Office records reveal that effective July 25, 2005, Mr. Sheinbein was excluded from practice before the Office in Patent and Trademark cases and that such notice appeared in the Official Gazette on July 26, 2005. Since the exclusion was effective after the response was filed, the response should have been accepted and the application should not have been abandoned.

Furthermore, in cases on which Mr. Sheinbein was listed as an attorney of record and the applicant was not represented by another registered practitioner, the office policy was to only conduct communications with the inventor/applicant. In this instance however, Martin Moynihan, a registered agent and the petitioner in this matter, was entrusted with the power of attorney. Additionally, there is no record that the power of attorney to Mr. Moynihan was ever revoked, even though Mr. Sheinbein may have been

prosecuting the application. In view thereof, the address of record should never have been changed and correspondence should not have been sent to the first named inventor.

Accordingly, the Notice of Abandonment mailed on January 24, 2006, is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1615 for treatment of the response filed May 27, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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In re Application of :
Shouhei Yoshida et al :
Application No. 10/868,805 : ON PETITION
Filed: June 17, 2004 :
Attorney Docket No. KAS-211

This is a decision on the petition, filed March 27, 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 March 12, 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 3746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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MAR 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,221,745 :
Issue Date: May 22, 2007 :
Application No. 10/868,819 :
Filed: June 17, 2004 :
Attorney Docket No. 27853.004.24 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC

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MAR 10 2009

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,224,779
Issue Date: May 29,2007
Application No. 10/868,842
Filed: June 17, 2004
Attorney Docket No. 27853.004.23

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) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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1001 G STREET, N.W.
SUITE 1100
WASHINGTON, DC 20001

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Hisato Oyamatsu :
Application No. 10/868,879 : ON PETITION
Filed: June 17, 2004 :
Attorney Docket No. 002372.00050 :

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pro Ladder Set Limited
C/o Holly Leahy
57 Country Club Lane
Falmouth NS B0P 1L0
CANADA

COPY MAILED

NOV 09 2006

OFFICE OF PETITIONS

In re Application of :
Fougere et al. :
Application No. 10/868,882 : ON PETITION
Filed: June 17, 2004 :
Title: Pro Ladder Set :

This is in response to the petition under 37 CFR 1.137(b), filed April 11, 2006, to revive the above-identified application.

On June 6, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on March 2, 2006. On April 11, 2006, petitioners filed the present petition to revive under 37 CFR 1.137(b), signed James R. Leahy.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be signed by**:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter;[1] or

[1] Pursuant to 37 CFR 3.71, a single assignee of the entire right, title and interest in the application or all partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application may prosecute an application. An assignee becomes of record by filing a statement in compliance with § 3.73(b) (attached) that is signed by a party who is authorized to act on behalf of the assignee.

(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.

James R. Leahy signed the present petition; however, there is no indication in the USPTO's records that Leahy is an attorney or agent registered to practice before the USPTO. Additionally, there is no indication that inventors, R. Fougere, Archibald or M. Fougere, filed a power of attorney in the present application or assigned their interests. Assuming, arguendo, that the inventors assigned their rights in the subject matter of the invention, petitioners have not submitted a Statement under 37 CFR 3.73(b), showing that Leahy has authority to sign on behalf of the assignee. The Office will not presume by the filing of the present petition that Leahy is a proper party pursuant to 37 CFR 1.33. Accordingly, it is concluded that the petition is improperly signed.

The petition is **dismissed**. The Office will not render a decision on this matter and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application in compliance with 37 CFR 1.33.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Forms PTO/SB/96 and PTO/SB/64 and Privacy Act Statement

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RENEWED

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____	_____
Signature	Date
_____	_____
Typed or printed name	Registration Number, if applicable
_____	_____
Address	Telephone Number
_____	
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____	_____
Date	Signature
	_____
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Pro Ladder Set Limited
C/o Holly Leahy
57 Country Club Lane
Falmouth NS B0P 1L0
CANADA

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Fougere et al. :
Application No. 10/868,882 : ON PETITION
Filed: June 17, 2004 :
Title: Pro Ladder Set :

This is in response to the renewed petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

On June 6, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on March 2, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**[1]

This matter is being referred to Technology Center Art Unit 3634.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. MPEP 711.03(c)(II)(A)(2)(a).

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12/4/07

George A. Loud, Esquire
BACON & THOMAS
Fourth Floor
625 Slaters Lane
Alexandria VA 22314-1176

In re Application of: ISHIDA, HITOSHI et al :
Appl. No.: 10/868,884 : DECISION ON PETITION
Filed: Jun. 17, 2004 :
For: SHEARING DEVICE FOR PERIPHERAL WALL OF TUBE :

This is a decision on the petition filed on Aug. 13, 2007 by which petitioner request withdrawal of the finality of the office action dated Jul. 27, 2007. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is dismissed.

In the petition, petitioner argues that the second final office action of Jul. 27, 2007 was only necessitated and prompted by the arguments made in the appeal brief filed on Apr. 19, 2007.

The record shows that:

1) On Jan. 30, 2006, the examiner issued a non-final office action rejecting all claims.
2) On Jun. 7, 2006, the applicant filed an amendment substantially changing the scope of the claims by amending claims 1, 4, 7, 8, 11 and adding new claim 12.
3) On Aug. 8, 2006, the examiner issued a final Office action rejecting claims 1-3, 5, 6 and 12 with a new ground of rejection based on the prior art patents to Strickland (1,833,079) under 35 U.S.C. 102(b). Claims 4 and 7-11 were rejected under the prior art patents to Strickland (US Pat. 1,833,079) in view of Salvador (US Pat. 3,680,422) under 35 U.S.C. 103. The examiner further alleged that the new ground of rejection was necessitated by the amendment of Jun. 7, 2006.
4) In response to the final rejection, on Feb. 12, 2007 the applicant filed a response to the final office action, which contained no amendment to the claims except arguments to the examiner's rejection. In particular, the applicant argued that Strickland's die block 20 is not displaceable by base plate 21, by ejector cup 25 or other element.
5) On Mar. 6, 2007, the examiner issued an advisory action.
6) On Apr. 9, 2007 the applicant filed an appeal brief.
7) Upon consideration of the arguments presented in the appeal brief, on Jul. 27, 2007, the examiner re-opened the prosecution by rejecting claims 1-3, 5, 6 and 12 based on the

prior art patent to Strickland (1,833,079) under 35 U.S.C. 103 instead of 102(b) as stated in the first final rejection of Aug. 8, 2006. It is noted that the applicant did not dispute the propriety of the final rejection of Aug. 8, 2006. The examiner again alleged the new ground of rejection in the final rejection was necessitated by the earlier amendment of Jun. 7, 2006.

8) On Aug. 13, 2007, the applicant filed the present petition to request withdrawal of the finality of Jul. 27, 2007 Office action. Petitioner contends that the new ground of the rejections in the Office action of Mar. 22, 2005 was only necessitated by the arguments in the appeal brief filed on Apr. 9, 2007.

Discussion

A review of the relevant prosecution history shows that the applicant's amendment of Jun. 7, 2006 did in fact raise new issues by adding substantial limitations in independent claim 1, which required a new search and consideration to be made by the examiner. After reconsideration of the claims presented in the Jun. 7, 2006 amendment, the examiner cited an additional prior art reference in the first final rejection of Aug. 8, 2006. This is a clear indication that the new ground of rejections of claims was necessitated by the applicant's amendment of Jun. 7, 2006. This final office action of Aug. 8, 2006 was properly made. It is also noted that petitioner did not dispute the propriety of the first final office action of Aug. 8, 2006.

In response to the applicant's arguments in the appeal brief filed on Apr. 9, 2007, the examiner withdrew the first final rejection of Aug. 8, 2006 and reissued a new final rejection on Jul. 27, 2007 based on 35 U.S.C. 103 instead of 102(b) as stated in the first final rejection. The applicant did not amend any claims and the claims remain with the same new issues raised, e.g. added limitations in the claims of Jun. 7, 2006 amendment. Therefore, the examiner continued to make the office action final pursuant to 37 CFR 1.113 and MPEP 706.07[1]. The ultimate issue is not that the arguments in the appeal brief were persuasive to cause the examiner to change the ground of rejection from 35 U.S.C. 102(b) to 103 with the same reference, but that if the rejection were first introduced at the first final rejection of Aug. 8, 2006, would a final then have been proper. Since the rejection under 102(b) was proper at that time necessitated by the amendment of Jun. 7, 2006, then it must follow that a 103 would have been appropriate as well at that time and should have been the issue on appeal if this 103 rejection had been set forth at that time.

Conclusion

For the foregoing reasons the examiner's final office action of Jul. 27, 2007 was properly made. Therefore, there is no basis for granting the relief requested. This application is being returned to the SPE of Art Unit 3724 awaiting applicant's response to the last Office action.

---

[1] 706.07 [R-3] Final Rejection/ 37 CFR 1.113. Final rejection or action. (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant 's, or for ex parte reexaminations filed under § 1.510, patent owner 's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or §1.116.

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. Should petitioner have any further questions, he is invited to contact Henry Yuen, Special Program Examiner, at (571) 272-4856

PETITION DISMISSED

for Karen M. Young

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Jamshid Dehmeshki	: DECISION ON REQUEST FOR
Patent Number	: 7574031	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,890	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1371** 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
Address: COMMISSIONER FOR PATENTS
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Haruyuki Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7573789	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,891	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1227** 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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED
DEC 30 2005
TECHNOLOGY CENTER 2100

In re Application of YAMAMOTO et al	:	
Application No.: 10/868,901	:	DECISION ON PETITION
Filing Date: June 17, 2004	:	FOR ACCELERATED
For: METHOD AND APPARATUS FOR	:	EXAMINATION UNDER
CONFIGURATION MANAGEMENT OF	:	M.P.E.P. §708.02(VIII)
COMPUTER SYSTEM	:	

This is a decision on the petition filed November 1, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Because the petition filed November 1, 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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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

NOV - 8 2005

Technology Center 2100

In re Application of: TAKEDA, et al.
Application No. 10/868,916
Filed: June 17, 2004
For: DATA PROCESSING SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 05 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference

from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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NOV 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of
Hidehiro Morita, et al.
Application No. 10/868,917
Filed: June 17, 2004
For: **STORAGE DEVICE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 5, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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Paper No.

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,486,368	:	DECISION ON REQUEST
Sakakura et al.	:	FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Application No. 10/868,920	:	PATENT TERM ADJUSTMENT
Filed: June 16, 2004	:	and
Attorney Docket No. 0553-0415	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-one (191) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one hundred ninety (190)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 17, 2007 and ends on July 30, 2007, the day before the first RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the B delay is 44, not 45 days. In view thereof, the patent term adjustment is 190, not 191 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred ninety (190)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,486,368 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Sakakura 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 146 days

Delete the phrase "by 146 days" and insert – by 190 days--

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OLIFF & BERRIDGE, PLC
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ALEXANDRIA, VA 22320

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AUG 21 2007

OFFICE OF PETITIONS

In re Application of :
Takeshi Sada et al :
Application No. 10/868,921 : DECISION GRANTING PETITION
Filed: June 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 120119 :

This is a decision on the petition, filed August 20, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 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 2838 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\868921.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Akihiro Shimada :
Application No. 10/868,946 : DECISION GRANTING PETITION
Filed: June 17, 2004 :
Attorney Docket No.: Q81991 :
Title of Invention: Axial Magnetic :
Bearing Apparatus :

This is a decision on the petition filed December 20, 2004, requesting that a Notice Of Omitted Item(s) in a Nonprovisional Application("Notice") mailed October 18, 2004, be withdrawn.

The application was filed on June 17, 2004. However, on October 18, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 17, 2004 but page 19 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 44 pages of specification were filed including page 19 were filed on June 17, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists " 44 pages of specification". The petition is further accompanied by a copy of page 19 of the specification.

Applicant's postcard receipt is prima facie evidence that 44 pages of specification, including page 19 were received on June 17, 2004, but page 19 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 19 of the specification was received on June 17, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is **Granted**. No petition fee is due and none has been charged.

Page 19 of the specification supplied on December 20, 2004; will be used for processing and examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **June 17, 2004** using the papers received on that date and the copy of page 19 of the specification supplied on December 20, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Bart Gerard Boucherie	: DECISION ON REQUEST FOR
Patent Number	: 7594704	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/868,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1504** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 12 2007

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:
N. Wayne Richardson et al	:
Serial No.: 10/868,967	: PETITION DECISION
Filed: June 17, 2004	:
Attorney Docket No.: 060912-5001-US	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed July 21, 2004. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MAY 25 2006

Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: SAIKA, et al.
Application No. 10/868,991
Filed: 15 June 2004
For: STORAGE SYSTEM AND STORAGE CONTROL METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on Applicant's petition filed 27 July 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 is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/868,997	06/16/2004	2877	788	21295.85 (H5823US)	9	21	1

CONFIRMATION NO. 6547

CORRECTED FILING RECEIPT

OC000000013659040

029127
HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

Date Mailed: 08/27/2004

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)

Malte Wachsmuth, Heidelberg, GERMANY;

Assignment For Published Patent Application

Leica Microsystems Heidelberg GmbH, Mannheim, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY DE 103 27 531.2 06/17/2003

If Required, Foreign Filing License Granted: 08/04/2004

Projected Publication Date: 12/23/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method for measuring fluorescence correlations in the presence of slow signal fluctuations

Preliminary Class

356

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has 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. 042005

MAY 16 2005

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210-2414

In re Application of:	:	
LEE XIAO FENG	:	
Application No. 10/869,001	:	DECISION ON PETITION
Filed: June 16, 2004	:	TO MAKE SPECIAL
Attorney Docket No. 171003-0001	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 30, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II. INFRINGEMENT

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(D) Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item II.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

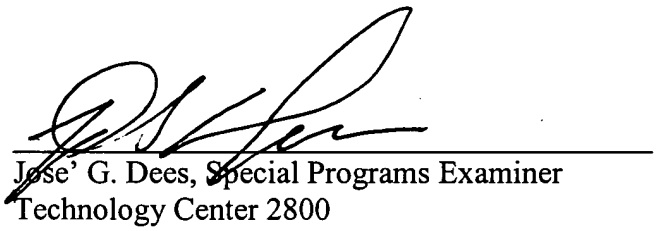
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 1309.

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



Jose' G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAGATE TECHNOLOGY c/o MOFO NOVA
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

COPY MAILED

JUN 0 8 2007

OFFICE OF PETITIONS

In re Application of :
LEE, Li-Lien et al. :
Application No. 10/869,007 : DECISION ON PETITION
Filed: June 15, 2004 : TO WITHDRAW
Attorney Docket No. **STL 3371** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the customer number 25227 is not associated with the case. Our records indicate customer number 50268 is associated with the case.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RAJ S. DAVE, PH.D.**
DARBY & DARBY P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 08 2005

CALIF KIP TERVO
6387 CAMINITO LAZARO
SAN DIEGO CA 92111

In re Application	:	
Lars Callne	:	
Serial No.: 10/869,008	:	DECISION ON PETITION
Filed: June 16, 2004	:	
For: Dental Articulator	:	
Surgical scalpel	:	

This is in response to applicants' petition filed June 16, 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, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Sten Holm	:	
Application No. 10/869025	:	
Filing or 371(c) Date: 06/17/2004	:	
Attorney Docket Number:	:	
1010315-000239	:	ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed December 23, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed August 4, 2004. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed responses to the Notice on February 2, 2005; however, the responses were incomplete. Applicant was so notified in Notices of Incomplete Reply, mailed February 24, 2005. No complete and proper response having been received, the application became abandoned October 5, 2004. A Notice of Abandonment was mailed March 31, 2006.

Applicant files the present petition, and an authorization to charge any additional fees due to Applicant's deposit account. 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; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 11-04

Paper No: __

ARENT FOX KINTNER
PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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NOV 17 2004
OFFICE OF PETITIONS

In re Application of
Almirante, et al.
Application No. 10/869,038
Filed: 17 June, 2004
Attorney Docket No. 026220-00046

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 25 August, 2004.

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 application was filed on 17 June, 2004, without, *inter alia*, a fully executed oath or

declaration; and

- on 4 August, 2004, the Office mailed a Notice to File Missing Parts;

- on 25 August, 2004, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee (and request and fee) for a one- (1-) month extension of time); an oath/declaration signed by named inventors save for Piero Del Soldato (Mr. Del Soldato); and a declaration Maria Teresa Noro, though none by Petitioner Gautam Prakash (Reg. No. 53,481), and: (a) there was no document evidencing transmittal of the entire application to Mr. Del Soldato; (b) it is clear from the declaration of Ms. Noro that only oath/declaration and assignment were sent, and not the entire application, to Mr. Del Soldato;(c) the correspondence was submitted without an English translation; and (d) the petition (over the signature and the registration number of Petitioner) fails to set forth the last known/current address of Mr. Del Soldato.

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.

Thus, 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.

And a reasonable effort must be made to ascertain a current or last known address.

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 materials submitted thus far do not clearly evidence that the entire application was sent to the alleged non-signing inventor. Petitioner should submit a copy of the transmittal letter (in English or in English translation declared by Petitioner to be accurate). In addition, Petitioner must either provide that last known/current address or evidence that a reasonable and responsible effort has been made to ascertain that address to no avail.

Therefore, the instant petition must be and hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

---

[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

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
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www.uspto.gov

JJGJR.: 06-05

Paper No: __

ARENT FOX KINTNER
PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Almirante, et al.
Application No. 10/869,038
Filed: 17 June, 2004
Attorney Docket No. 026220-00046

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on17 March, 2005.

The petition is **GRANTED**, and as authorized the fee for a two- (2-) month extension of time to make timely the petition is charged to Deposit Accout 01-2300 (Docket No. 026220-00046.

BACKGROUND

The record indicates:

- the application was filed on 17 June, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 4 August, 2004, the Office mailed a Notice to File Missing Parts;

- the original petition (with fee) with request and fee for extension of time, filed on 25 August, 2004, included, *inter alia*, an oath/declaration signed by named inventors save for Piero Del Soldato (Mr. Del Soldato); and a declaration Maria Teresa Noro, though none by Petitioner Gautam Prakash (Reg. No. 53,481), and the petition was dismissed on 17 November, 2004,

for failing to provide documentary evidence of the transmittal of the entire application to Mr. Del Soldato (the declaration of Ms. Noro made clear that only oath/declaration and assignment were sent, and not the entire application, to Mr. Del Soldato); moreover the correspondence was submitted without an English translation; and (d) the petition (over the signature and the registration number of Petitioner) failed to set forth the last known/current address of Mr. Del Soldato;

- the instant petition evidences that the entire application was sent to Mr. Soldato (and that he has failed to respond) and sets forth his last known and current address.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

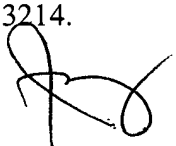
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 06/08/2010

Applicant	: Noboru Kawaike	: DECISION ON REQUEST FOR
Patent Number	: 7421373	: RECALCULATION of PATENT
Issue Date	: 09/02/2008	: TERM ADJUSTMENT IN VIEW
Application No	: 10/869,047	: OF WYETH
Filed	: 06/17/2004	:
		:

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

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MICHAEL W. SWANK
APT 2906
8181 EL MUNDO
HOUSTON, TX 77054

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of :
Michael W. Swank :
Application No. 10/869,060 : DECISION GRANTING PETITION
Filed: June 17, 2004 : UNDER 37 CFR 1.10(d)
For: ADIPO-MIMETIC MOTION-CONTROL :
HYDRATION SYSTEM PACK

This is a decision on the petition, filed August 26, 2004, which is being treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 16, 2004, rather than the presently accorded filing date of June 17, 2004, which latter date appears on the copy of the Express Mail label submitted with the instant petition.

The petition is **granted**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 16, 2004. Petitioner states that the June 17, 2004 "date-in" entered by the USPS on the Express Mail label (No. ER507647115US) is in error. In support, petitioner has supplied a copy of his USPS sales receipt which bears the above-noted Express Mail label number and a June 16, 2004 sales date. The above-noted Express Mail label number also appears on the transmittal letter submitted with the instant application.

In view of the evidence submitted, it is concluded that the application was deposited in Express Mail service on June 16, 2004. Accordingly, the instant application is entitled to a filing date of June 16, 2004, and has been so accorded.

This file is being referred to the Office of Initial Patent Examination Division for processing with a filing date of June 16, 2004. A corrected Filing Receipt will be mailed by the Office of Initial Patent Examination Division.

Telephone inquiries concerning this decision on petition may be directed to Frances Hicks at (571) 272-3218.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: William C. Regli	: DECISION ON REQUEST FOR
Patent Number	: 7639868	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/869,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1567** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

SEP 18 2006

TECHNOLOGY CENTER 2100

In re Application of: LAUB, et al.
Application No. 10/869,070
Filed: June 17, 2004
For: DATA PROCESSING SYSTEM AND METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on August 24, 2006.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. **A search made by a foreign patent office satisfies this requirement;**

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/869,101	06/15/2004	1624	1512	PC23066B		23	7

CONFIRMATION NO. 6143

CORRECTED FILING RECEIPT

OC000000013884342

28523
PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

Date Mailed: 09/24/2004

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)

Glenn E. Wilcox, Cranston, RI;
Mark E. Flanagan, Gales Ferry, CT;
Michael J. Munchhof, Salem, CT;
Ton Vries, Groningen, NETHERLANDS;
Christian Koecher, St. Ursan, SWITZERLAND;

Power of Attorney: The patent practitioners associated with Customer Number **28523**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/154,699 05/23/2002
which claims benefit of 60/294,775 05/31/2001
and claims benefit of 60/341,048 12/06/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/12/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/869,101

Projected Publication Date: 11/18/2004

Non-Publication Request: No

Early Publication Request: No

Title

Chiral salt resolution

Preliminary Class

544

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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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Bilotti, et al.	:	
Application No. 10/869,103	:	DECISION ON PETITION
Filed: June 14, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. END-621CNT1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed August 7, 2006, and supplemented August 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the Amendment filed August 28, 2006.

The petition is **dismissed**.

Applicant files the present petition to claim priority of the present application as a continuation of application no. 10/287,066, filed November 4, 2002, now U.S. Patent No. 6,805,273, which is a continuation-in-part of International Application no. PCT/EP01/03615, filed March 29, 2001, which claims the benefit of German Patent Application No. 10026683.5, filed May 30, 2000.

A proper benefit claim to a chain of prior applications must include proper references to each prior application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must have been made in each intermediate application in the chain of prior applications. See MPEP 201.11 In other words, it is not sufficient to simply include specific references as to all prior applications. All references must be proper. A benefit claim to a chain of prior applications will only be effective if each prior application actually includes a proper benefit claim. See also Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 OG 89 (March 18, 2003)

Application no. 10/287,066 does not include, and has not been amended to include, a proper benefit claim. Office records reveal that a petition filed in application 10/287,066, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed International Application no. PCT/EP01/03615, filed March 29, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed German Patent Application No. 10026683.5, filed May 30, 2000, was dismissed in a Decision mailed to Petitioner on December 12, 2006. It is important to note that the petition, and thus, the late priority claims, were first presented after application no. 10/287, 066 issued as a patent. As such, with respect to the International Application, the petition was dismissed because the relationship of the PCT application was not stated and patentee did not make clear from the record that the 35 U.S.C. § 120 priority claim is appropriate as required for issuance of a certificate of correction. With respect to the foreign application, the petition was dismissed because both the claim for the benefit of priority to the foreign application under 35 U.S.C. § 119(a)-(d) and the certified copy of the foreign application specified in 35 U.S.C. 119(b) were not presented during the pendency of the application. As such, the amendment filed August 28, 2006 is unacceptable as drafted because continuity does not exist between 10/287,066, and International Application no. PCT/EP01/03615, filed March 29, 2001, or German Patent Application No. 10026683.5, filed May 30, 2000, because the benefit claim has not been perfected in prior application 10/287,066.

Applicant states that a certified copy of German Patent No. 10026683.5 has not been provided herewith as it was provided in PCT/EP01/03615. Submission of the certified copy of the foreign application in the International Application is not sufficient to comply with the requirement of 35 U.S.C. 119(b) and 37 CFR 1.55(a) that the certified copy be filed with the United States Patent and Trademark Office. Office records indicate that the International Application never entered the national stage in the United States of America.

There is no indication in the official application file wrapper that practitioner was ever empowered to represent the instant application. If practitioner desires to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. Petitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are given to the contrary.

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

Application No. 10/869,103

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson for

Francis Hicks
Lead Petitions Examiner
Office of Petitions

CC: John Welsh
Welsh & Flaxman LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314

OIPE IAP97 AUG 07 2007 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bilotti et al.

Group Art Unit: 3721

Serial No.: 10/869,103

Examiner: Chukwurah

Filed : 06/14/2004

Title : SURGICAL STAPLING INSTRUMENT

REQUEST FOR RECONSIDERATION OF DECISION ON PETITION

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

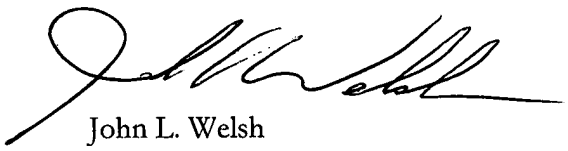
Further to the Decision on Petition mailed March 14, 2007, Applicant respectfully requests reconsideration thereof in view of the corrections made in the reissue application (U.S. Application Serial No. 11/499,817) for U.S. Patent No. 6,805,273 by the USPTO and the filing of the certified German priority document on August 6, 2007.

In particular, when the Petition was filed in the above-referenced application, a reissue application was similarly filed in the '273 patent. However, the USPTO misfiled the papers for the reissue application and therefore, the Petition in this application was unsupported by the parent application. However, the U.S. Patent and Trademark Office has corrected the improperly assigned papers in the '273 patent and it is now believed that the continuity chain for the above-referenced application is proper. In addition, a certified copy of German Patent No. 10026683.5 has been filed in the reissue application for the '273 patent.

With this in mind, Applicant respectfully requests the Decision on Petition be reconsidered and the petition be granted. This request is believed to be timely as the Decision on Petition did not have a specified period for response in view of the improperly filed papers as explained to Applicant's representative by the Petitions Examiner involved in this application.

If additional information is required, the Office is urged to contact the undersigned at (703) 920-1122.

Respectfully submitted,



John L. Welsh
Registration No. 33,621

Welsh & Flaxman LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314
(703) 920-1122

Docket No. END-621CNT1

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NEW BRUNSWICK NJ 08933-7003

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SEP 26 2008

OFFICE OF PETITIONS

In re Application of
Billoti, et al.
Application No. 10/869,103
Filed: June 14, 2004
Attorney Docket No. END-621CNT1

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed November 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional U.S. App. No. 10/287,066, filed November 2, 2002, and PCT/EP01/03615, filed March 29, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, German Patent App. No. 10026683.5, filed May 30, 2000, as set forth in the concurrently filed amendment and declaration previously filed on August 28, 2006.

It is noted that U.S. App. No. 10/287,066, filed November 2, 2002, issued October 19, 2004 as U.S. Pat. No. 6,805,273, and is the subject of Reissue App. No. 11/499,817, filed August 7, 2006, which issued as RE40237 on April 15, 2008.

The desired benefit claim referenced above and contained on the amendment and declaration filed August 28, 2006 was not timely presented in prior-filed U.S. App. No. 10/287,066 prior to the issuance of the patent. The claim, however, was presented and entered in Reissue App. No. 11/499,817.

It is further noted that the instant application is abandoned as of December 7, 2006. A petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. A petition under 37 CFR 1.78(a)(3), however, is required if the later-filed application is a utility or plant application filed on or after November 29, 2000.

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 of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 to referred Technology Center Art Unit 3721 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/869,103	06/14/2004	3721	1128	END-621CNT1	19	1

CONFIRMATION NO. 6562

CORRECTED FILING RECEIPT

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

OC000000032292921

Date Mailed: 09/26/2008

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)

Federico Bilotti, Roma, ITALY;
Antonio Longo, Palermo, ITALY;

Power of Attorney:
Dean Garner--35877

Domestic Priority data as claimed by applicant

This application is a CON of 10/287,066 11/04/2002 PAT 6,805,273
which is a CIP of PCT/EP01/03615 03/28/2001

Foreign Applications
EUROPEAN PATENT OFFICE (EPO) PCT/EP01/03615 03/29/2001
GERMANY 100266833.5 05/30/2000

If Required, Foreign Filing License Granted: 08/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/869,103**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Surgical stapling instrument

Preliminary Class

227

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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1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Shu-Sheng Chin :
Application No. 10/869,117 : DECISION GRANTING PETITION
Filed: June 15, 2004 :
Attorney Docket No. P/727-136 :

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 15, 2004, rather than the presently accorded filing date of June 16, 2004.

Petitioner alleges that the application was deposited in Express Mail service on June 15, 2004. Petitioner states that the "date-in" on the Express Mail Customer Label is incorrect, and has provided a copy of a USPS Express Mail Corporate Account Mailing Statement and the USPS Pick Up Service Statement, showing that the Express Mail shipment with Label No. EV209612615US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file), was deposited on June 15, 2004. The allegation is also supported by a statement by Dorothy Jenkins, the employee responsible for depositing the express mail package with a representative of the USPS.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is June 15, 2004 and therefore, the application is entitled to a filing date of June 15, 2004.

The petition is **GRANTED**. No petition fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination for a correction of the filing date to June 15, 2004, not June 16, 2004, and for a mailing of a corrected filing receipt.

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 CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Daniel C. McPherson	: DECISION ON REQUEST FOR
Patent Number	: 7603666	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/869,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **664** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 05/17/2010

Applicant : Daniel C. McPherson
Patent Number : 7603666
Issue Date : 10/13/2009
Application No: 10/869,129
Filed : 06/16/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **754** 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

JAN 17 2007

Commissioner for Patents
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ONYX PHARMACEUITICALS, INC.
2100 POWELL STREET
12TH FLOOR
EMERYVILLE CA 94608

In re Application of	:
Kostel et al.	:
Serial No.: 10/869,143	: PETITION DECISION
Filed: June 16, 2004	:
Attorney Docket No.: ONYX1052-ORD	:

This is in response to the petition under 37 CFR § 1.181, filed on October 4, 2006 and again on December 20, 2006, regarding the "pre-matureness" of the final rejection. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a restriction requirement on August 24, 2005 restricting claims 1–21 into groups I and II. On September 26, 2005, applicants responded by electing group I, with traverse.

The examiner mailed a non-final Office action to applicants on January 12, 2006, setting forth a three-month shortened statutory period for reply in which groups I and II were rejoined and claims 1-24 were now acted on. Claims 4, 5, 6, 14, 17, and 21 were rejected under 112, second paragraph. Claims 1-24 were rejected under 35 U.S.C. 112, first paragraph for lack of enablement. Claims 1-3, 5, 9, 10, 18-20, and 22-24 were rejected under 35 USC 102(b) as being anticipated by Huyghe et al. The examiner also rejected claims 1-6, 13-17, and 21 under 35 USC 103 as obvious over Huyghe et al. in view of O'Riordan et al.

Applicants replied on April 12, 2006 and amended the claims. Applicants argued the 35 U.S.C. 112, first paragraph rejection and also traversed both rejections made under 35 USC 102 (b) and 35 USC 103 wherein applicants indicated that Huyghe et al. do not teach the instantly claimed invention, and that O'Riordan et al. do not make up the shortcomings of the primary reference.

In response to applicants' remarks, the examiner mailed a final Office action on August 1, 2006 setting forth a three-month shortened statutory period for reply in which claims 1-22 were indicated as pending and rejected on the Form-PTOL-326. In this Office action, the examiner has

maintained and repeated the 35 USC 102(b) and 35 USC 103 rejections set forth in the previous non-final Office action. All other rejections were overcome.

In response thereto, applicants filed this petition on October 4, 2006 and again on December 20, 2006, regarding the "pre-matureness" of the final rejection.

DISCUSSION

Applicants argue that the record is not clear, as claims free of rejection/objection are not indicated as allowable. Applicants point out that the only previous rejection of claims 7, 8, 11, and 12 was under 35 U.S.C. 112, first paragraph, which was withdrawn by the examiner in the final rejection. Accordingly, applicants submit that issuance of a final rejection was premature. This argument is not persuasive as the record is clear as to the status of these claims. Claims 7, 8, 11, and 12 were only rejected under 35 U.S.C. 112, first paragraph. When this rejection was withdrawn and there were no other pending rejections, it is obvious that these claims are now free of rejection/objection and hence allowable but for the fact that they are dependent claims dependent on rejected claims.

Applicants also argue that the examiner has improperly rejected claims wherein claims 1, 2, 3, and 5 are rejected under 35 U.S.C. 102 (b) and concurrently rejected these same claims under 35 U.S.C. 103 over the same reference. Applicants submit that rejection of a given claim can be asserted either as anticipated, under 35 U.S.C. 102 (b), by a cited reference or obvious over a cited reference, under 35 U.S.C. 103 (a), further in view of the teachings of one or more secondary reference; but not both simultaneously. For this reason, applicants request clarification of the rejection of claims 1, 2, 3, and 5. This argument is not persuasive. The examiner has separately considered the claims under each statute -in this case 102 and 103, and provided reasons for doing so. There is nothing that prevents an examiner from using a reference in this manner and if applicants are not in agreement with the rejections, then they should argue why the references fail to teach the claimed invention. It is not seen that clarification is necessary.

DECISION

The petition is **DENIED**. Any new or renewed petition must be filed within TWO MONTHS of the mail 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.

George C. Elliott

George Elliott
Director, Technology Center 1600

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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
10/869,184	06/15/2004	2173	1000	3382-67423-01	15	28	4

CONFIRMATION NO. 6830

CORRECTED FILING RECEIPT

OC000000014161169

26119
KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Date Mailed: 10/22/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dmitri A. Klementiev, Redmond, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number **26119**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/869,184

Projected Publication Date: 12/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Recording/playback tools for UI-based applications

Preliminary Class

345

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Dmitri A. Klementiev	: DECISION ON REQUEST FOR
Patent Number	: 7627821	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/869,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **641** 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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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Nils Zander	: DECISION ON REQUEST FOR
Patent Number	: 7591819	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/869,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1332** 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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1-28-09

Patent No. : 7,481,867
Ser. No. : 10/869,191
Inventor(s) : Harpham, et. al.
Issued : January 27, 2009
Title : VACUUMSYSTEM FOR IMMERSION PHOOLITHOGRAPHY

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Jean-Paul G. Hoffman
Pillsbury Wintrop Shaw Pittman
P.O. Box 10500
McLean, VA 22102

ej

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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Dippl et al.	:	DECISION ON
Application No. 10/869,216	:	REQUEST FOR
Filed: 06/15/2004	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
11371-28 (SIEMENS AG CASE	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on February 22, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be increased from thirty-four (34) days to sixty-three (63) days.

The application for patent term adjustment patent is **DISMISSED**.

For the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is THIRTY-TWO (32) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 15, 2004, the application was filed. On December 13, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is thirty-four (34) days.

Applicants state that the patent is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of thirty-four (34) days based on an adjustment for PTO delay of

sixty-five (65) days, for mailing an office action on October 19, 2005, fourteen (14) months and 65 days after June 15, 2004, the date the application was filed, pursuant to 35 U.S.C. § 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by twenty-nine (29) days and two (2) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

Specifically, the patent term adjustment was reduced by 29 days under 37 CFR 1.704(b) for the filing of a request for continued examination on January 25, 2007, which was three (3) months and 29 days after the mailing of the final Office action mailed on September 25, 2006, and by two (2) days under 37 CFR 1.704(b) for the filing of a response on June 11, 2007, to a non-final Office action mailed on March 9, 2007, which was filed three (3) months and two (2) days after the mailing of the non-final Office action.

On February 22, 2008, the subject request for reconsideration of patent term adjustment was timely filed, along with the issue fee.

Applicants contend that there should have been no reduction of 29 days for the filing of the request for continued examination on January 25, 2007, because of Office delay in mailing the advisory action mailed on January 10, 2007, after the filing of an amendment after final rejection filed on November 27, 2006.

Applicants' argument has been considered, but is unpersuasive.

At the outset, it is noted that the final Office action mailed on September 25, 2006 was incorrectly indicated in Office records to have been mailed on September 27, 2006. Accordingly, the period of delay under 37 CFR 1.704(b) is the period from the mailing of the final Office action on September 25, 2006, to the filing of a request for continued examination on January 25, 2007, or 31 days, rather than the 29 days previously calculated.

37 CFR 1.704(b) states that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed

or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

MPEP 2731 states that the period of delay is the number of days beginning on the date after the date a reply in compliance with 37 CFR 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A reply under 37 CFR 1.113 is a reply to a final Office action, and a reply in compliance with 37 CFR 1.113 is a reply that cancels all of the rejected claims and removes all outstanding objections and requirements or otherwise places the application in condition for allowance. Any amendment after final that does not cancel all of the rejected claims and remove all outstanding objections and requirements or otherwise place the application in condition for allowance is not a reply in compliance with 37 CFR 1.113(c).

Following a final Office action, the period at issue is first the period it takes applicant to file a reply in compliance with 37 CFR 1.113(c). Until such a reply is filed, applicant is subject to entry of a period of reduction for failure to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b). The mailing of an Advisory Action is an indication that the reply filed did not comply with 37 CFR 1.113(a). It is not the Office's action within the meaning of 37 CFR 1.702(a)(2).

Applicants' reply on November 27, 2006, to the final office action of September 25, 2006, was not in accordance with 37 CFR 1.113(c). Accordingly, a reduction in patent term adjustment of 31 days for applicant delay is warranted for failure to engage in reasonable efforts to conclude processing or examination.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **thirty-two (32) days** (65 days of PTO delay, reduced by 33 (31+2) days of Applicant delay). To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office.

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 a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Thursday
Date: 8/14/2008

PALM INTRANET

Time: 08:41:24

PTA Calculations for Application: 10/869216			
Application Filing Date:	06/15/2004	PTO Delay (PTO):	65
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	32
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	08/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
71	08/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
64	12/13/2007	MAIL NOTICE OF ALLOWANCE			
63	12/11/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	12/11/2007	ISSUE REVISION COMPLETED			
61	12/11/2007	DOCUMENT VERIFICATION			
60	12/10/2007	NOTICE OF ALLOWABILITY			
57	11/27/2007	DATE FORWARDED TO EXAMINER			
56	10/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	11/27/2007	DATE FORWARDED TO EXAMINER			
54	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	11/27/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	09/25/2007	MAIL FINAL REJECTION (PTOL - 326)			
50	09/17/2007	FINAL REJECTION			
49	06/14/2007	DATE FORWARDED TO EXAMINER			
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47	03/09/2007	MAIL NON-FINAL REJECTION			
46	03/05/2007	NON-FINAL REJECTION			
45	02/07/2007	DATE FORWARDED TO EXAMINER			
44	01/25/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	02/07/2007	DATE FORWARDED TO EXAMINER			

42	01/25/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	34
41	02/07/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	01/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	01/25/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	01/10/2007	MAIL ADVISORY ACTION (PTOL - 303)			
37	01/08/2007	ADVISORY ACTION (PTOL-303)			
36	12/13/2006	DATE FORWARDED TO EXAMINER			
35	11/27/2006	AMENDMENT AFTER FINAL REJECTION			
34	09/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	09/22/2006	FINAL REJECTION			
32	07/07/2006	DATE FORWARDED TO EXAMINER			
31	06/27/2006	RESPONSE AFTER NON-FINAL ACTION			
30	04/05/2006	MAIL NON-FINAL REJECTION			
29	04/03/2006	NON-FINAL REJECTION			
28	01/30/2006	DATE FORWARDED TO EXAMINER			
27	01/18/2006	RESPONSE AFTER NON-FINAL ACTION			
26	10/19/2005	MAIL NON-FINAL REJECTION	65		-1
25	10/17/2005	NON-FINAL REJECTION			
24	06/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	08/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	10/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	10/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
19.7	06/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	06/15/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17	09/15/2004	APPLICATION RETURN FROM OIPE			
16	09/15/2004	APPLICATION RETURN TO OIPE			
15	09/14/2004	APPLICATION RETURN FROM OIPE			
14	09/15/2004	APPLICATION IS NOW COMPLETE			
13	09/14/2004	APPLICATION RETURN TO OIPE			

12	09/14/2004	APPLICATION RETURN FROM OIPE			
11	09/15/2004	APPLICATION IS NOW COMPLETE			
10	09/14/2004	APPLICATION RETURN TO OIPE			
9	09/14/2004	APPLICATION DISPATCHED FROM OIPE			
8	09/14/2004	APPLICATION IS NOW COMPLETE			
7	08/26/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/30/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/26/2004	CLEARED BY OIPE CSR			
3	07/26/2004	CASE CLASSIFIED BY OIPE			
2	07/02/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/15/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

Applicant: Gallucci et al.
Appl. No.: 10/869,231
Filing Date: June 15, 2004
Title: FLAME RETARDANT THERMOPLASTIC FILMS AND METHODS OF MAKING THE SAME
Attorney Docket No.: 140541-2
Pub. No.: US 2005/0048299 A1
Pub. Date: March 3, 2005

Patent application publication No. US 2005/0048299 A1 published on March 3, 2005, with the wrong specification and an error in the priority information.

This is a decision to *sua sponte* issue a corrected patent application publication, publishing the application as originally filed.

The corrected patent application publication will be published in due course.

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

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United States Patent and Trademark Office
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SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of :
Marve D. Adams et al :
Application No. 10/869,251 : ON PETITION
Filed: June 17, 2004 :
Attorney Docket No. 375P2827 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 August 3, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 4, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3726 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JAN 25 2005

Paper No. 090704

L. James Ristas
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In re Application of:
Howard A. Fromson et al
Serial No.: 10/869,273
Filed: June 16, 2004
Attorney Docket No.: **FRO/189/US**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed June 16, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from Howard A. Fromson stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Hien Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re	:	
Bennett, et al.	:	DECISION ON REQUEST
Application No. 10/869,276	:	FOR RECONSIDERATION OF
Filed: June 16, 2004	:	PATENT TERM ADJUSTMENT
Patent No. 7,278,263	:	UNDER 37 C.F.R. §1.705(d)
Issued: October 9, 2007	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)" filed October 18, 2007[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

On October 9, 2007, the above-identified application matured into U.S. Patent No. 7,278,263. The patent issued with a Patent Term Adjustment of six hundred sixty-seven (667) days (667 days of PTO delay and 0 days of applicant delay).

[1] The request was timely in accordance with 37 C.F.R. §1.705(d). See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704. December 10, 2006 fell on a Sunday. See 37 C.F.R. § 1.7(a).

The Office determined a patent term adjustment of six hundred sixty-seven (667) days based on an adjustment for PTO delay of six hundred sixty-seven (667) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and zero (0) days of applicant delay.

Patentees state that an additional PTO delay of 116 days should have been accorded due to the Office's failure to issue the patent within three years of filing.

It is noted that the instant patent issued 3 years and 116 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 C.F.R. 1.703(f). In this instance, the period of delay of 116 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 667 days attributable to grounds specified in § 1.702(a)(1).

In view thereof, the correct determination of PTA at the time of issuance is six hundred sixty-seven (667) days.

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/869,280	06/15/2004	2131	2958	MS1-2032US	12	89	14

CONFIRMATION NO. 6220

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

CORRECTED FILING RECEIPT

OC000000014034591

Date Mailed: 10/07/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bin Zhu, Edina, MN;
Min Feng, Chengdu, CHINA;
Shipeng Li, Redmond, VA;

Assignment For Published Patent Application

Microsoft Corporation

Power of Attorney: The patent practitioners associated with Customer Number **22801**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/13/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/869,280

Projected Publication Date: 12/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Scalable layered access control for multimedia

Preliminary Class

713

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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